United Nations A/C.6/65/L.7

General Assembly

Distr.: Limited
26 October 2010

Original: English

Sixty-fifth session
Sixth Committee
Agenda item 77
Report of the United Nations Commission on International Trade Law on the work of its forty-third session

Draft resolution

Part three of the UNCITRAL Legislative Guide on Insolvency Law

The General Assembly,

Recalling its resolution 2205 (XXI) of 17 December 1966, by which it established the United Nations Commission on International Trade Law with the purpose of furthering the progressive harmonization and unification of the law of international trade in the interests of all peoples, in particular those of developing countries,

Recalling its resolution 59/40 of 2 December 2004 recommending the use of the *UNCITRAL Legislative Guide on Insolvency Law*,

Recognizing that effective insolvency regimes are increasingly seen as a means of encouraging economic development and investment, as well as fostering entrepreneurial activity and preserving employment,

Noting that because the business of corporations is increasingly conducted, both domestically and internationally, through enterprise groups, the formation of enterprise groups is a feature of the increasingly globalized world economy and thus significant to international trade and commerce,

Recognizing that where the business of an enterprise group fails, it is important not only to know how the group will be treated in insolvency proceedings, but also to ensure that that treatment facilitates, rather than hinders, the fast and efficient conduct of the insolvency proceedings,

Being aware that very few States recognize an enterprise group as a legal entity, except in limited ways for specific purposes and that very few, if any, have a comprehensive regime for the treatment of enterprise groups in insolvency,

Noting that the *UNCITRAL Legislative Guide on Insolvency Law*, while providing a sound basis for the unification of insolvency law and forming key

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elements of a modern commercial law framework, does not address the insolvency of enterprise groups,

Appreciating the support for and the participation of international intergovernmental and non-governmental organizations active in the field of insolvency law reform in the development of an additional part of the *UNCITRAL Legislative Guide on Insolvency Law* addressing the treatment of enterprise groups in insolvency,

1. *Expresses its appreciation* to the United Nations Commission on International Trade Law for developing and adopting part three of the *UNCITRAL Legislative Guide on Insolvency Law* on the treatment of enterprise groups in insolvency;[1]

2. *Requests* the Secretary-General to transmit the text of part three of the *UNCITRAL Legislative Guide on Insolvency Law* to Governments and other interested bodies;

3. *Recommends* that all States utilize the *UNCITRAL Legislative Guide on Insolvency Law* to assess the economic efficiency of their insolvency law regimes and give favourable consideration to the Guide when revising or adopting legislation relevant to insolvency, and invites States that have used the Guide to advise the Commission accordingly;

4. *Recommends also* that all States continue to consider implementation of the *UNCITRAL Model Law on Cross-Border Insolvency*;

5. *Recommends* that the *UNCITRAL Practice Guide on Cross-Border Insolvency Cooperation* continue to be given due consideration by judges, insolvency practitioners and other stakeholders involved in cross-border insolvency proceedings.

[1] See *Official Records of the General Assembly, Sixty-fifth Session, Supplement No. 17* (A/65/17), chap. V.

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General Assembly

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25 October 2010

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Sixty-fifth session
Sixth Committee
Agenda item 75
Responsibility of States for internationally wrongful acts

Draft resolution

Responsibility of States for internationally wrongful acts

The General Assembly,

Recalling its resolution 56/83 of 12 December 2001, the annex to which contains the text of the articles on responsibility of States for internationally wrongful acts, and further recalling its resolutions 59/35 of 2 December 2004 and 62/61 of 6 December 2007 commending the articles to the attention of Governments,

Emphasizing the continuing importance of the codification and progressive development of international law, as referred to in Article 13, paragraph 1 (*a*), of the Charter of the United Nations,

Noting that the subject of responsibility of States for internationally wrongful acts is of major importance in relations between States,

Taking into account the comments and observations of Governments[1] and the discussions held in the Sixth Committee at the fifty-sixth, fifty-ninth, sixty-second and sixty-fifth sessions of the General Assembly on responsibility of States for internationally wrongful acts,

Noting with appreciation the compilation of decisions of international courts, tribunals and other bodies referring to the articles, prepared by the Secretary-General,[2]

1. *Acknowledges* the importance of the articles on responsibility of States for internationally wrongful acts, and commends them once again to the attention of Governments, without prejudice to the question of their future adoption or other appropriate action;

2. *Requests* the Secretary-General to invite Governments to submit further written comments on any future action regarding the articles;

[1] See A/62/63 and Add.1 and A/65/96 and Add.1.
[2] A/62/62 and Corr.1 and Add.1 and A/65/76.

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3. *Also requests* the Secretary-General to update the compilation of decisions of international courts, tribunals and other bodies referring to the articles and to invite Governments to submit information on their practice in this regard, and further requests the Secretary-General to submit this material well in advance of its sixty-eighth session;

4. *Decides* to include in the provisional agenda of its sixty-eighth session the item entitled "Responsibility of States for internationally wrongful acts" and to further examine, with a view to taking a decision, within the framework of a working group of the Sixth Committee, the question of a convention on responsibility of States for internationally wrongful acts or other appropriate action on the basis of the articles.

United Nations A/C.6/65/L.9

General Assembly

Distr.: Limited
26 October 2010

Original: English

Sixty-fifth session
Sixth Committee
Agenda item 80
Diplomatic protection

Draft resolution

Diplomatic protection

The General Assembly,

Recalling its resolution 62/67 of 6 December 2007, the annex to which contains the text of the articles on diplomatic protection, commending the articles to the attention of Governments,

Recalling also that the International Law Commission decided to recommend to the General Assembly the elaboration of a convention on the basis of the articles on diplomatic protection,[1]

Emphasizing the continuing importance of the codification and progressive development of international law, as referred to in Article 13, paragraph 1 (*a*), of the Charter of the United Nations,

Noting that the subject of diplomatic protection is of major importance in the relations of States,

Taking into account the comments and observations of Governments[2] and the discussions held in the Sixth Committee at the sixty-second and sixty-fifth sessions of the General Assembly on diplomatic protection,

1. *Commends* once again the articles on diplomatic protection, presented by the International Law Commission to the attention of Governments, and invites them to submit in writing to the Secretary-General any further comments, including comments concerning the recommendation by the Commission to elaborate a convention on the basis of the articles;[1]

2. *Decides* to include in the provisional agenda of its sixty-eighth session an item entitled "Diplomatic protection" and to further examine, within the framework

[1] *Official Records of the General Assembly, Sixty-first Session, Supplement No. 10* (A/61/10), para. 46.

[2] A/62/118 and Add.1 and A/65/182 and Add.1.

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of a working group of the Sixth Committee, and to also identify any difference of opinion on the articles, in the light of the written comments of Governments, as well as views expressed in the debates held at the sixty-second and sixty-fifth sessions of the General Assembly, the question of a convention on diplomatic protection, or any other appropriate action, on the basis of the above-mentioned articles.

United Nations A/C.6/65/L.10

General Assembly

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3 November 2010

Original: English

Sixty-fifth session
Sixth Committee
Agenda item 107
Measures to eliminate international terrorism

Measures to eliminate international terrorism

Report of the Working Group

Chair: Mr. Rohan **Perera** (Sri Lanka)

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I. Introduction

1. Pursuant to General Assembly resolution 64/118 of 16 December 2009 and upon the recommendation of the Ad Hoc Committee established by the General Assembly in its resolution 51/210 of 17 December 1996, the Sixth Committee decided, at its 1st meeting, on 4 October 2010, to establish a working group with a view to finalizing the draft comprehensive convention on international terrorism and to continue to discuss the item included in its agenda by the Assembly in its resolution 54/110 of 9 December 1999, in which the Assembly addressed the question of convening a high-level conference under the auspices of the United Nations.

2. At the same meeting, the Sixth Committee elected Mr. Rohan Perera (Sri Lanka) as Chair of the Working Group. It also decided to open the Working Group to all States Members of the United Nations or members of the specialized agencies or of the International Atomic Energy Agency.

3. In keeping with its established practice, the Working Group decided that members of the Bureau of the Ad Hoc Committee would continue to act as Friends of the Chair during the meetings of the Working Group. Accordingly, Ms. Maria Telalian (Greece), Ms. Ana Cristina Rodríguez-Pineda (Guatemala) and Mr. Andi Xhoi (Albania) served as Friends of the Chair. Since Ms. Namira Nabil Negm (Egypt) was no longer available to serve in this capacity, the Group of African States nominated Mr. Dire David Tladi (South Africa) to join the Friends of the Chair. The Working Group expressed its appreciation for the valuable contribution of Ms. Negm to its work.

4. The Working Group had before it the report of the Ad Hoc Committee on its fourteenth session (A/65/37).[1] It also had before it the letter from the Permanent Representative of Egypt to the United Nations addressed to the Secretary-General, dated 1 September 2005 (A/60/329), and the letter dated 30 September 2005 from the Permanent Representative of Egypt to the United Nations addressed to the Chair of the Sixth Committee (A/C.6/60/2).

II. Proceedings of the Working Group

5. The Working Group held two meetings, on 18 October and on 2 November 2010. It also held informal consultations on 20 and 21 October. At its 1st meeting, on 18 October, the Working Group adopted its work programme and decided to

[1] See also the reports of the Ad Hoc Committee on its sixth to thirteenth sessions: *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 37* (A/57/37 and Corr.1); ibid., *Fifty-eighth Session, Supplement No. 37* (A/58/37); ibid., *Fifty-ninth Session, Supplement No. 37* (A/59/37); ibid., *Sixtieth Session, Supplement No. 37* (A/60/37); ibid., *Sixty-first Session, Supplement No. 37* (A/61/37), ibid., *Sixty-second Session, Supplement No. 37* (A/62/37); ibid., *Sixty-third Session, Supplement No. 37* (A/63/37); and ibid., *Sixty-fourth Session, Supplement No. 37* (A/64/37). See also the reports of the Working Group established at the fifty-fifth to sixtieth sessions of the General Assembly (A/C.6/55/L.2, A/C.6/56/L.9, A/C.6/57/L.9, A/C.6/58/L.10, A/C.6/59/L.10 and A/C.6/60/L.6). Summaries of the oral reports of the Chair of the Working Group established at the sixty-first, sixty-second, sixty-third and sixty-fourth sessions are contained in documents A/C.6/61/SR.21, A/C.6/62/SR.16, A/C.6/63/SR.14 and A/C.6/64/SR.14, respectively.

proceed with discussions on the outstanding issues relating to the draft comprehensive convention on international terrorism and, thereafter, consider the question of convening a high-level conference under the auspices of the United Nations, to formulate a joint organized response of the international community to terrorism in all its forms and manifestations. The Chair, together with the Coordinator of the draft comprehensive convention, Ms. Maria Telalian, also held several rounds of bilateral contacts with interested delegations on the outstanding issues relating to the draft comprehensive convention. Annex I contains the texts of the preamble and articles 1, 2 and 4 to 27 of the draft comprehensive convention, prepared by the Friends of the Chair, incorporating the various texts contained in annexes I, II and III to the report of the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996 at its sixth session (A/57/37), for discussion, taking into account developments in recent years. Annex II contains texts of written proposals in relation to the outstanding issues surrounding the draft comprehensive convention.

6. At its 2nd meeting, on 2 November, the Working Group received a report on the results of the bilateral contacts held during the current session. Annex III contains an informal summary of the exchange of views during the meetings of the Working Group and its informal consultations. The informal summary is for reference purposes only and not an official record of the proceedings.

III. Recommendation

7. At its 2nd meeting, on 2 November 2010, the Working Group decided to refer the consideration of the present report to the Sixth Committee.

Annex I

Text of preamble and articles 1 to 2 and 4 to 27 of the draft comprehensive convention, prepared by the Friends of the Chair*

The States Parties to the present Convention,

Recalling the existing international treaties relating to various aspects of the problem of international terrorism, in particular the Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963, the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970, the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, concluded at Montreal on 23 September 1971, the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted in New York on 14 December 1973, the International Convention against the Taking of Hostages, adopted in New York on 17 December 1979, the Convention on the Physical Protection of Nuclear Material, adopted in Vienna on 26 October 1979, the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 24 February 1988, the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988, the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988, the Convention on the Marking of Plastic Explosives for the Purpose of Detection, done at Montreal on 1 March 1991, the International Convention for the Suppression of Terrorist Bombings, adopted in New York on 15 December 1997, the International Convention for the Suppression of the Financing of Terrorism, adopted in New York on 9 December 1999, the International Convention for the Suppression of Acts of Nuclear Terrorism, adopted in New York on 13 April 2005, the Amendment to the Convention on the Physical Protection of Nuclear Material, adopted at Vienna on 8 July 2005, the Protocol of 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at London on 14 October 2005, and the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done at London on 14 October 2005,

Recalling also the Declaration on Measures to Eliminate International Terrorism, annexed to General Assembly resolution 49/60 of 9 December 1994,

* The text represents the stage of consideration reached at the 2010 session of the Working Group of the Sixth Committee. It incorporates the various texts contained in annexes I, II and III to the report of the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996 on its sixth session (A/57/37), for discussion, taking into account developments in recent years. It is understood that further consideration will be given to the texts in future discussions, including on outstanding issues. Editorial changes of a technical nature have been introduced in order to align the language of the draft text with the recently adopted counter-terrorism instruments negotiated in the context of the Ad Hoc Committee and the Sixth Committee. The article numbers in square brackets correspond to the numbering of the relevant articles in previous texts.

Recalling further the Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism, annexed to General Assembly resolution 51/210 of 17 December 1996,

Deeply concerned about the worldwide escalation of acts of terrorism in all its forms and manifestations, which endanger or take innocent lives, jeopardize fundamental freedoms and seriously impair the dignity of human beings,

Reaffirming their unequivocal condemnation of all acts, methods and practices of terrorism as criminal and unjustifiable, wherever and by whomever committed, including those which jeopardize friendly relations among States and peoples and threaten the territorial integrity and security of States,

Recognizing that acts, methods and practices of terrorism constitute a grave violation of the purposes and principles of the United Nations, which may pose a threat to international peace and security, jeopardize friendly relations among States, hinder international cooperation and aim at the undermining of human rights, fundamental freedoms and the democratic bases of society,

Recognizing also that the financing, planning and inciting of terrorist acts are also contrary to the purposes and principles of the United Nations, and that it is the duty of the States Parties to bring to justice those who have participated in such acts,

Convinced that the suppression of acts of international terrorism, including those in which States are directly or indirectly involved, is an essential element in the maintenance of international peace and security and the sovereignty and territorial integrity of States,

Noting that the Convention relating to the Status of Refugees, signed at Geneva on 28 July 1951, and the Protocol relating to the Status of Refugees, done at New York on 31 January 1967, do not provide a basis for the protection of perpetrators of terrorist acts, and stressing the importance of the full compliance by the Parties to those instruments with the obligations embodied therein, including, in particular, the principle of non-refoulement,

Bearing in mind the necessity of respecting human rights and international humanitarian law in the fight against terrorism,

Realizing the need for a comprehensive convention on international terrorism,

Have resolved to take effective measures to prevent acts of terrorism and to ensure that perpetrators of terrorist acts do not escape prosecution and punishment by providing for their extradition or prosecution, and to that end have agreed as follows:

Article 1

For the purposes of the present Convention:

1. "State or government facility" includes any permanent or temporary facility or conveyance that is used or occupied by representatives of a State, members of a Government, the legislature or the judiciary or by officials or employees of a State or any other public authority or entity or by employees or officials of an intergovernmental organization in connection with their official duties.

2. "Military forces of a State" means the armed forces of a State which are organized, trained and equipped under its internal law for the primary purpose of national defence or security and persons acting in support of those armed forces who are under their formal command, control and responsibility.

3. "Infrastructure facility" means any publicly or privately owned facility providing or distributing services for the benefit of the public, such as water, sewerage, energy, fuel, banking, communications, telecommunications and information networks.

4. "Place of public use" means those parts of any building, land, street, waterway or other location that are accessible or open to members of the public, whether continuously, periodically or occasionally, and encompasses any commercial, business, cultural, historical, educational, religious, governmental, entertainment, recreational or similar place that is so accessible or open to the public.

5. "Public transportation system" means all facilities, conveyances and instrumentalities, whether publicly or privately owned, that are used in or for publicly available services for the transportation of persons or cargo.

Article 2

1. Any person commits an offence within the meaning of the present Convention if that person, by any means, unlawfully and intentionally, causes:

(a) Death or serious bodily injury to any person; or

(b) Serious damage to public or private property, including a place of public use, a State or government facility, a public transportation system, an infrastructure facility or to the environment; or

(c) Damage to property, places, facilities or systems referred to in paragraph 1 (b) of the present article resulting or likely to result in major economic loss,

when the purpose of the conduct, by its nature or context, is to intimidate a population, or to compel a Government or an international organization to do or to abstain from doing any act.

2. Any person also commits an offence if that person makes a credible and serious threat to commit an offence as set forth in paragraph 1 of the present article.

3. Any person also commits an offence if that person attempts to commit an offence as set forth in paragraph 1 of the present article.

4. Any person also commits an offence if that person:

(a) Participates as an accomplice in an offence as set forth in paragraph 1, 2 or 3 of the present article; or

(b) Organizes or directs others to commit an offence as set forth in paragraph 1, 2 or 3 of the present article; or

(c) Contributes to the commission of one or more offences as set forth in paragraph 1, 2 or 3 of the present article by a group of persons acting with a common purpose. Such contribution shall be intentional and shall either:

(i) Be made with the aim of furthering the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of an offence as set forth in paragraph 1 of the present article; or

(ii) Be made in the knowledge of the intention of the group to commit an offence as set forth in paragraph 1 of the present article.

Article 4 [2 bis]

Where the present Convention and a treaty dealing with a specific category of terrorist offence would be applicable in relation to the same act as between States that are parties to both the present Convention and the said treaty, the provisions of the latter shall prevail.

Article 5 [3]

The present Convention shall not apply where the offence is committed within a single State, the alleged offender and the victims are nationals of that State, the alleged offender is found in the territory of that State and no other State has a basis under article 8 [6], paragraph 1 or 2, of the present Convention to exercise jurisdiction, except that the provisions of articles 10 [8] and 14 [12] to 18 [16] of the present Convention shall, as appropriate, apply in those cases.

Article 6 [4]

Each State Party shall adopt such measures as may be necessary:

(a) To establish as criminal offences under its domestic law the offences set forth in article 2 of the present Convention;

(b) To make these offences punishable by appropriate penalties which take into account the grave nature of these offences.

Article 7 [5]

Each State Party shall adopt such measures as may be necessary, including, where appropriate, domestic legislation, to ensure that criminal acts within the scope of the present Convention are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature.

Article 8 [6]

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 of the present Convention when:

(a) The offence is committed in the territory of that State; or

(b) The offence is committed on board a vessel flying the flag of that State or an aircraft which is registered under the laws of that State at the time the offence is committed; or

(c) The offence is committed by a national of that State.

2. A State Party may also establish its jurisdiction over any such offence when:

(a) The offence is committed by a stateless person who has his or her habitual residence in the territory of that State; or

(b) The offence is committed wholly or partially outside its territory, if the effects of the conduct or its intended effects constitute or result in, within its territory, the commission of an offence set forth in article 2; or

(c) The offence is committed against a national of that State; or

(d) The offence is committed against a State or government facility of that State abroad, including an embassy or other diplomatic or consular premises of that State; or

(e) The offence is committed in an attempt to compel that State to do or to abstain from doing any act; or

(f) The offence is committed on board an aircraft which is operated by the Government of that State.

3. Upon ratifying, accepting, approving or acceding to the present Convention, each State Party shall notify the Secretary-General of the United Nations of the jurisdiction it has established under its domestic law in accordance with paragraph 2 of the present article. Should any change take place, the State Party concerned shall immediately notify the Secretary-General.

4. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over the offences referred to in article 2 in cases where the alleged offender is present in its territory and it does not extradite that person to any of the States Parties that have established their jurisdiction in accordance with paragraph 1 or 2 of the present article.

5. When more than one State Party claims jurisdiction over the offences set forth in article 2, the relevant States Parties shall strive to coordinate their actions appropriately, in particular concerning the conditions for prosecution and the modalities for mutual legal assistance.

6. Without prejudice to the norms of general international law, the present Convention does not exclude the exercise of any criminal jurisdiction established by a State Party in accordance with its domestic law.

Article 9 [7]

States Parties shall take appropriate measures, in conformity with the relevant provisions of national and international law, including international human rights law, for the purpose of ensuring that refugee status is not granted to any person in respect of whom there are serious reasons for considering that he or she has committed an offence set forth in article 2 of the present Convention.

Article 10 [8]

1. States Parties shall cooperate in the prevention of the offences set forth in article 2 of the present Convention by taking all practicable measures, including, if necessary and where appropriate, adapting their domestic legislation, to prevent and counter preparations in their respective territories for the commission, within or outside their territories, of those offences, including:

(a) Measures to prohibit the illegal activities of persons, groups and organizations that encourage, instigate, organize, knowingly finance or engage in the commission of offences set forth in article 2;

(b) In particular, measures to prohibit the establishment and operation of installations and training camps for the commission of offences set forth in article 2.

2. States Parties shall further cooperate in the prevention of the offences set forth in article 2, in accordance with their domestic law, by exchanging accurate and verified information and coordinating administrative and other measures taken as appropriate to prevent the commission of offences set forth in article 2, in particular by:

(a) Establishing and maintaining channels of communication between their competent agencies and services to facilitate the secure and rapid exchange of information concerning all aspects of offences set forth in article 2;

(b) Cooperating with one another in conducting inquiries, with respect to the offences set forth in article 2, concerning:

(i) The identity, whereabouts and activities of persons in respect of whom reasonable suspicion exists that they are involved in such offences;

(ii) The movement of funds, property, equipment or other instrumentalities relating to the commission of such offences.

3. States Parties may exchange information through the International Criminal Police Organization (INTERPOL) or other international and regional organizations.

Article 11 [9]

1. Each State Party, in accordance with its domestic legal principles, shall take the necessary measures to enable a legal entity located in its territory or organized under its laws to be held liable when a person responsible for the management or control of that legal entity has, in that capacity, committed an offence set forth in article 2 of the present Convention. Such liability may be criminal, civil or administrative.

2. Such liability is incurred without prejudice to the criminal liability of individuals having committed the offences.

3. Each State Party shall ensure, in particular, that legal entities liable in accordance with paragraph 1 of the present article are subject to effective, proportionate and dissuasive criminal, civil or administrative sanctions. Such sanctions may include monetary sanctions.

Article 12 [10]

1. Upon receiving information that a person who has committed or who is alleged to have committed an offence set forth in article 2 of the present Convention may be present in its territory, the State Party concerned shall take such measures as may be necessary under its domestic law to investigate the facts contained in the information.

2. Upon being satisfied that the circumstances so warrant, the State Party in whose territory the offender or alleged offender is present shall take the appropriate measures under its domestic law so as to ensure that person's presence for the purpose of prosecution or extradition.

3. Any person regarding whom the measures referred to in paragraph 2 of the present article are being taken shall be entitled:

(a) To communicate without delay with the nearest appropriate representative of the State of which that person is a national or which is otherwise entitled to protect that person's rights or, if that person is a stateless person, the State in the territory of which that person habitually resides;

(b) To be visited by a representative of that State;

(c) To be informed of that person's rights under subparagraphs (a) and (b) above.

4. The rights referred to in paragraph 3 of the present article shall be exercised in conformity with the laws and regulations of the State in the territory of which the offender or alleged offender is present, subject to the provision that the said laws and regulations must enable full effect to be given to the purposes for which the rights accorded under paragraph 3 are intended.

5. The provisions of paragraphs 3 and 4 of the present article shall be without prejudice to the right of any State Party having a claim to jurisdiction in accordance with article 8 [6], paragraph 1 (c) or 2 (a), of the present Convention to invite the International Committee of the Red Cross to communicate with and visit the alleged offender.

6. When a State Party, pursuant to the present article, has taken a person into custody, it shall immediately notify, directly or through the Secretary-General of the United Nations, the States Parties which have established jurisdiction in accordance with article 8 [6], paragraph 1 or 2, and, if it considers it advisable, any other interested States Parties, of the fact that such person is in custody and of the circumstances which warrant that person's detention. The State which makes the investigation contemplated in paragraph 1 of the present article shall promptly inform the said States Parties of its findings and shall indicate whether it intends to exercise jurisdiction.

Article 13 [11]

1. The State Party in the territory of which the alleged offender is present shall, in cases to which article 8 [6] of the present Convention applies, if it does not extradite that person, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case without undue delay to

its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State. Those authorities shall take their decision in the same manner as in the case of any other offence of a grave nature under the law of that State.

2. Whenever a State Party is permitted under its domestic law to extradite or otherwise surrender one of its nationals only upon the condition that the person will be returned to that State to serve the sentence imposed as a result of the trial or proceeding for which the extradition or surrender of the person was sought, and this State and the State seeking the extradition of the person agree with this option and other terms they may deem appropriate, such a conditional extradition or surrender shall be sufficient to discharge the obligation set forth in paragraph 1 of the present article.

Article 14 [12]

Any person who is taken into custody or regarding whom any other measures are taken or proceedings are carried out pursuant to the present Convention shall be guaranteed fair treatment, including enjoyment of all rights and guarantees in conformity with the law of the State in the territory of which that person is present and applicable provisions of international law, including international human rights law and, in particular, the Standard Minimum Rules for the Treatment of Prisoners.

Article 15 [13]

1. States Parties shall afford one another the greatest measure of assistance in connection with investigations or criminal or extradition proceedings brought in respect of the offences set forth in article 2 of the present Convention, including assistance in obtaining evidence at their disposal necessary for the proceedings.

2. States Parties shall carry out their obligations under paragraph 1 of the present article in conformity with any treaties or other arrangements on mutual legal assistance that may exist between them. In the absence of such treaties or arrangements, States Parties shall afford one another assistance in accordance with their domestic law.

3. Each State Party may give consideration to establishing mechanisms to share with other States Parties information or evidence needed to establish criminal, civil or administrative liability pursuant to article 11 [9] of the present Convention.

Article 16 [14]

None of the offences set forth in article 2 of the present Convention shall be regarded, for the purposes of extradition or mutual legal assistance, as a political offence or as an offence connected with a political offence or as an offence inspired by political motives. Accordingly, a request for extradition or for mutual legal assistance based on such an offence may not be refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives.

Article 17 [15]

Nothing in the present Convention shall be interpreted as imposing an obligation to extradite or to afford mutual legal assistance, if the requested State Party has substantial grounds for believing that the request for extradition for offences set forth in article 2 of the present Convention or for mutual legal assistance with respect to such offences has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic origin or political opinion, or that compliance with the request would cause prejudice to that person's position for any of these reasons.

Article 18 [16]

1. A person who is being detained or is serving a sentence in the territory of one State Party whose presence in another State Party is requested for purposes of identification, testimony or otherwise providing assistance in obtaining evidence for the investigation or prosecution of offences under the present Convention may be transferred if the following conditions are met:

(a) The person freely gives his or her informed consent; and

(b) The competent authorities of both States Parties agree, subject to such conditions as those States Parties may deem appropriate.

2. For the purposes of the present article:

(a) The State to which the person is transferred shall have the authority and obligation to keep the person transferred in custody, unless otherwise requested or authorized by the State from which the person was transferred;

(b) The State to which the person is transferred shall, without delay, implement its obligation to return the person to the custody of the State from which the person was transferred as agreed beforehand, or as otherwise agreed, by the competent authorities of both States;

(c) The State to which the person is transferred shall not require the State from which the person was transferred to initiate extradition proceedings for the return of the person;

(d) The person transferred shall receive credit for service of the sentence being served in the State from which he or she was transferred for the time spent in the custody of the State to which he or she was transferred.

3. Unless the State Party from which a person is to be transferred in accordance with the present article so agrees, that person, whatever his or her nationality, shall not be prosecuted or detained or subjected to any other restriction of his or her personal liberty in the territory of the State to which that person is transferred in respect of acts or convictions anterior to his or her departure from the territory of the State from which such person was transferred.

Article 19 [17]

1. The offences set forth in article 2 of the present Convention shall be deemed to be included as extraditable offences in any extradition treaty existing between any of the States Parties before the entry into force of the present Convention. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be subsequently concluded between them.

2. When a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, the requested State may, at its option, consider the present Convention as a legal basis for extradition in respect of the offences set forth in article 2. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize the offences set forth in article 2 as extraditable offences between themselves, subject to the conditions provided by the law of the requested State.

4. If necessary, the offences set forth in article 2 shall be treated, for the purposes of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territory of the States that have established jurisdiction in accordance with article 8 [6], paragraphs 1 and 2, of the present Convention.

5. The provisions of all extradition treaties and arrangements between States Parties with regard to offences set forth in article 2 shall be deemed to be modified as between States Parties to the extent that they are incompatible with the present Convention.

Article 20 [17 bis]

The State Party where the alleged offender is prosecuted shall, in accordance with its domestic law or its applicable procedures, communicate the final outcome of the proceedings to the Secretary-General of the United Nations, who shall transmit the information to the other States Parties.

Article 21 [20]

States Parties shall carry out their obligations under the present Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and that of non-intervention in the domestic affairs of other States.

Article 22

Nothing in the present Convention entitles a State Party to undertake in the territory of another State Party the exercise of jurisdiction or performance of functions which are exclusively reserved for the authorities of that other State Party by the law in force in that State Party.

Article 23

1. Any dispute between two or more States Parties concerning the interpretation or application of the present Convention which cannot be settled through negotiation within a reasonable time shall, at the request of one of them, be submitted to arbitration. If, within six months of the date of the request for arbitration, the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice, by application, in conformity with the Statute of the Court.

2. Each State may, at the time of signature, ratification, acceptance or approval of the present Convention or accession thereto, declare that it does not consider itself bound by paragraph 1 of the present article. The other States Parties shall not be bound by paragraph 1 of the present article with respect to any State Party which has made such a reservation.

3. Any State which has made a reservation in accordance with paragraph 2 of the present article may, at any time, withdraw that reservation by notification to the Secretary-General of the United Nations.

Article 24

1. The present Convention shall be open for signature by all States from ... to ... at United Nations Headquarters in New York.

2. The present Convention is subject to ratification, acceptance or approval. The instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations.

3. The present Convention shall be open to accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 25

1. The present Convention shall enter into force on the thirtieth day following the date of the deposit of the twenty-second instrument of ratification, acceptance, approval or accession with the Secretary-General of the United Nations.

2. For each State ratifying, accepting, approving or acceding to the Convention after the deposit of the twenty-second instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification, acceptance, approval or accession.

Article 26

1. A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations.

2. Denunciation shall take effect one year following the date on which such notification is received by the Secretary-General of the United Nations.

Article 27

The original of the present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective Governments, have signed the present Convention.

Done at New York this ... of ... two thousand and ....

Annex II

List of written proposals in relation to the outstanding issues surrounding the draft comprehensive convention[a]

	Symbol	*Subject*
Nicaragua	A/C.6/65/WG.2/DP.1	Text relating to article 2
Coordinator	A/62/37	Text relating to preamble and article 3 [18]
Friends of the Chairman	A/C.6/60/INF/1	Text relating to article 3 [18]
Friends of the Chairman	A/C.6/60/INF/2	Text relating to preamble
Argentina	A/61/37, annex II (A/AC.252/2006/WP.1)	Text relating to preamble amending document A/C.6/60/INF/2
Cuba	A/60/37, annex III (A/AC.252/2005/WP.2)	Text relating to article 2
Coordinator	A/57/37, annex IV	Text relating to article 3 [18]
Member States of the Organization of the Islamic Conference	A/57/37, annex IV	Text relating to article 3 [18]

Proposal submitted by Nicaragua (A/C.6/65/WG.2/DP.1)

Article 2 of the draft comprehensive convention on international terrorism

Add a paragraph 4 (e)

(e) Being in a position to control or direct effectively the actions of armed groups not belonging to the armed forces of the State but responding to it, orders, permits, or participates directly or indirectly in the planning, preparation, initiation or execution of any of the offences set forth in paragraphs 1, 2 or 3 of the present article in a manner incompatible with the purposes and principles of the Charter of the United Nations.

[a] It is understood that further consideration will be given to these written amendments and proposals, together with all other written and oral proposals, in future discussions, including on outstanding issues.

Text circulated by the Coordinator for discussion (A/62/37)

Text relating to the preamble and article 3 [18] of the draft comprehensive convention[b]

Preamble

Noting that the activities of military forces of States are governed by rules of international law outside the framework of the present Convention, and that the exclusion of certain actions from the coverage of the present Convention does not condone or make lawful otherwise unlawful acts, or preclude prosecution under other laws,

Article 3 [18]

1. Nothing in the present Convention shall affect other rights, obligations and responsibilities of States, peoples and individuals under international law, in particular the purposes and principles of the Charter of the United Nations, and international humanitarian law.

2. The activities of armed forces during an armed conflict, as those terms are understood under international humanitarian law, which are governed by that law, are not governed by the present Convention.

3. The activities undertaken by the military forces of a State in the exercise of their official duties, inasmuch as they are governed by other rules of international law, are not governed by the present Convention.

4. Nothing in the present article condones or makes lawful otherwise unlawful acts, nor precludes prosecution under other laws; acts which would amount to an offence as defined in article 2 of the present Convention remain punishable under such laws.

5. The present Convention is without prejudice to the rules of international law applicable in armed conflict, in particular those rules applicable to acts lawful under international humanitarian law.

Proposal to facilitate discussion by the Friends of the Chairman of the Working Group on measures to eliminate international terrorism (A/C.6/60/INF/1)

Proposed addition to article 3 [18] of the draft comprehensive convention on international terrorism

5. Nothing in this Convention makes acts unlawful which are governed by international humanitarian law and which are not unlawful under that law.

[b] This text represents the proposed elements of an overall package presented by the Coordinator in 2007 and contained in the annex to the report of the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996 on its eleventh session (see A/62/37, para. 14). It is understood that further consideration will be given to this proposal together with all other written and oral proposals, in future discussions, including on outstanding issues.

Proposal to facilitate discussion by the Friends of the Chairman of the Working Group on measures to eliminate international terrorism (A/C.6/60/INF/2)

Proposed preambular paragraph of the draft comprehensive convention on international terrorism

Reaffirming the right to self-determination of peoples in accordance with the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,[1]

[1] General Assembly resolution 2625 (XXV), annex.

Proposal submitted by Argentina amending document A/C.6/60/INF/2 (A/61/37, annex II)

Proposed preambular paragraph of the draft comprehensive convention on international terrorism

Reaffirming the right to self-determination of peoples in accordance with the Charter of the United Nations, the Declaration on the Granting of Independence to Colonial Countries and Peoples[1] and the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,[2]

[1] General Assembly resolution 1514 (XV).

[2] General Assembly resolution 2625 (XXV), annex.

Proposal submitted by Cuba (A/60/37, annex III)

Draft comprehensive convention on international terrorism and draft international convention for the suppression of acts of nuclear terrorism

In article 2 of both draft conventions, add a new paragraph 4 (d) reading:

"Being in a position to control or direct effectively the actions of troops belonging to the armed forces of the State, orders, permits, or actively participates in the planning, preparation, initiation or execution of any of the offences set forth in paragraphs 1, 2 or 3 of the present article, in a manner incompatible with international law, including the Charter of the United Nations."

Text circulated by the Coordinator for discussion (A/57/37, annex IV)

Text relating to article 3 [18] of the draft comprehensive convention

1. Nothing in this Convention shall affect other rights, obligations and responsibilities of States, peoples and individuals under international law, in particular the purposes and principles of the Charter of the United Nations, and international humanitarian law.

2. The activities of armed forces during an armed conflict, as those terms are understood under international humanitarian law, which are governed by that law, are not governed by this Convention.

3. The activities undertaken by the military forces of a State in the exercise of their official duties, inasmuch as they are governed by other rules of international law, are not governed by this Convention.

4. Nothing in this article condones or makes lawful otherwise unlawful acts, nor precludes prosecution under other laws.

Text proposed by the member States of the Organization of the Islamic Conference (A/57/37, annex IV)

Text relating to article 3 [18] of the draft comprehensive convention

1. Nothing in this Convention shall affect other rights, obligations and responsibilities of States, peoples and individuals under international law, in particular the purposes and principles of the Charter of the United Nations, and international humanitarian law.

2. The activities of the parties during an armed conflict, including in situations of foreign occupation, as those terms are understood under international humanitarian law, which are governed by that law, are not governed by this Convention.

3. The activities undertaken by the military forces of a State in the exercise of their official duties, inasmuch as they are in conformity with international law, are not governed by this Convention.

4. Nothing in this article condones or makes lawful otherwise unlawful acts, nor precludes prosecution under other laws.

Annex III

Informal summaries by the Chair of the Working Group concerning the draft comprehensive convention and the question of the convening of a high-level conference

A. Draft comprehensive convention on international terrorism

1. Summary of the statement by the Chair

1. During the informal consultations, held on 20 October, discussions on the outstanding issues relating to the draft comprehensive convention proceeded with a focus on the elements of an overall package, presented by the Coordinator in 2007 (A/62/37). In this context, the Chair recalled that draft article 2 and draft article 18 were closely linked, the text of the former was inclusionary and prescriptive, and the text of the latter was exclusionary and formulated as a "without prejudice" and applicable law clause. To accentuate this linkage, it was recalled that the Coordinator had proposed, during the 2009 Working Group discussions, that draft article 18 should eventually be placed closer to draft article 2, thus becoming draft article 3. Draft article 18 attempted to translate the concerns and various viewpoints expressed by delegations into a legal text against the background of the law as it currently exists.

2. The Chair also recalled that it was generally understood that draft article 18 should be read and construed as an integral whole. The original exclusionary text contained in the International Convention for the Suppression of Terrorist Bombings[a] was carefully drafted and reflected a delicate balance, the integrity of which needed to be preserved. It had been considered that such a result would be achieved by adding on language that clarified the overall objective of the exclusionary provisions as applicable law clauses, rather than beginning anew. Accordingly, paragraph 1 of draft article 18 generally safeguarded other rights, obligations and responsibilities of States, peoples and individuals under international law, including the right to self-determination of peoples as enshrined in the Charter of the United Nations and international humanitarian law. Paragraph 5, which formed a new additional element, should be read together with paragraph 1.

3. Since the activities of armed forces during armed conflict were regulated by an entirely different and well-established legal regime, it had been necessary to carve out such regime from the scope of the draft convention. During the negotiations of various counter-terrorism instruments in the Ad Hoc Committee and the Working Group, practical questions on how to address activities of armed forces during armed conflict and activities of military forces of a State during peacetime had been raised. It was generally understood that the specificity of these activities could not be adequately covered by the general safeguards clause in paragraph 1. This was the rationale behind paragraph 2 of draft article 18. The relevant commentaries to the 1949 Geneva Conventions and 1977 Additional Protocols offered an understanding of the meaning of the terms "armed forces" and "armed conflict" within the context of the developments in international humanitarian law. International humanitarian law governs these activities, including by prohibiting certain conduct during armed conflict and criminalizing acts committed in breach of such law.

[a] United Nations, *Treaty Series*, vol. 2149, No. 37517, p. 256.

4. The Chair also recalled that paragraphs 3 and 4 of draft article 18 excluded the activities undertaken by the military forces of a State in the exercise of their official duties. Whereas "armed forces" and "armed conflict" were well understood in and governed by international humanitarian law, the term "military forces of a State" was not defined; hence the reason for defining it in the draft convention. To balance the imperative that the legitimate activities of the military forces of a State were excluded from the scope of the draft convention and the importance of the need to safeguard against impunity, specific qualifiers for such exclusion had been provided, and it was understood that other laws would apply. To better capture the general orientation of the balance that no impunity was intended, the elements of the overall package that were included offered further clarity by way of an additional preambular paragraph and some language to paragraph 4 of draft article 18. International law and national law were summoned to harness the endeavour to address concerns about possible impunity:

(a) The additional preambular paragraph, based on a similar one in the International Convention for the Suppression of Acts of Nuclear Terrorism,[b] noted that the activities of military forces of States were governed by rules of international law outside the framework of the Convention and that the exclusion of certain actions from the coverage of the Convention did not condone or make lawful otherwise unlawful acts, or preclude prosecution under other laws;

(b) The additional phrase in paragraph 4 of draft article 18 that "acts which would amount to an offence as defined in article 2 of this Convention remain punishable under such laws" both signalled the purposive desire to address any possible inference of impunity and sought to preserve the integrity of the applicable laws.

5. With regard to paragraph 5 of draft article 18, the Chair stated that it sought to offer further clarity to the general safeguards contained in paragraph 1 as read with paragraph 2, which projected a clear demarcation that had sought to be made between the draft convention and activities governed by international humanitarian law.

6. While the Chair stressed that draft article 2, read in conjunction with draft article 18, constituted core provisions of the draft instrument, he reminded delegations that the convention also contained additional treaty obligations for States, for example, the specific obligations of prevention for States parties provided in draft article 8, and the obligations to cooperate, in particular in the exchange of information.

2. Comments of delegations

7. Delegations made statements concerning the draft comprehensive convention on international terrorism during the meeting of the Working Group on 18 October and during informal consultations held on 20 and 21 October 2010.

8. Delegations reiterated the importance that they attached to the early conclusion of the draft comprehensive convention and stressed that, with the necessary political will, the remaining outstanding issues could be successfully resolved. It was also pointed out that there were many elements of principle on which there was common

[b] United Nations, *Treaty Series*, vol. 2445, No. 44004, p. 89.

ground, including: (a) that the draft convention, as a law enforcement instrument, would supplement and strengthen the existing legal framework and enhance cooperation between States in their counter-terrorism efforts; (b) that the convention should not affect other rights, obligations and responsibilities of States, peoples and individuals under international law, including the Charter of the United Nations and international humanitarian law; (c) that activities of military forces of a State in the exercise of their official duties fell outside the scope of the convention while also providing against impunity should such forces commit such crimes; and (d) that the sanctity of international humanitarian law was not to be prejudiced and that the convention would not make lawful acts otherwise unlawful under that law. Several delegations stressed the need to conclude work on the draft comprehensive convention at the current session. In this context, references were made to the 2005 World Summit Outcome (resolution 60/1), the United Nations Global Counter-Terrorism Strategy (resolution 60/288), its recent review by the General Assembly (resolution 64/297) and to the statement made by the President of the Security Council on 27 September 2010 (S/PRST/2010/19).

9. As to the outstanding issues surrounding the draft comprehensive convention, several delegations expressed their full support for the Coordinator's 2007 package proposal and recalled that the draft convention was a law enforcement instrument, dealing with individual criminal responsibility based on an extradite or prosecute regime. The 2007 proposal provided useful clarifications with respect to the relationship between the draft convention and international humanitarian law and ensured that the substance and integrity of that body of law was upheld. Some delegations further emphasized that the 2007 proposal, albeit not perfect, constituted a carefully balanced compromise text that effectively sought to address the various concerns raised throughout the negotiations. Delegations that were not ready to conclude the draft convention on the basis of the 2007 proposal were called upon to clarify their position in order to move the process forward. Similarly, those delegations that had objected to the Coordinator's 2002 proposal were requested to signal their acceptance or rejection of the 2007 proposal.

10. Some other delegations expressed the view that the 2007 proposal merited serious consideration and should constitute the basis for further negotiation. While some delegations stated their willingness to continue to consider the Coordinator's 2007 proposal, they reiterated their preference for the earlier proposals relating to draft article 18.

11. In this context, at one level, some delegations reiterated the need for the comprehensive convention to contain a legal definition of terrorism, to distinguish it from the legitimate struggle of peoples in the exercise of their right to self-determination from foreign occupation or colonial domination. Some delegations also expressed the view that the convention should address all forms of terrorism, including State terrorism, and that it should cover acts by armed forces not covered by international humanitarian law. In this context, comments were made regarding previous proposals to add language to draft article 2 (see annex II).

12. At another level, it was also pointed out that any compromise text had to be predicated on the principle that no cause or grievance could justify terrorism in any form. Reference was also made to existing language, which, it was noted, had gained the support of the vast majority of States, concerning military activities of States that had already been agreed upon in previously concluded counter-terrorism

instruments, including the 1997 International Convention for the Suppression of Terrorist Bombings and the recently adopted Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation and the Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft.[c] It was recalled that this language did not provide impunity for military forces, but emphasized the criminal law nature of the instrument and recognized that other legal regimes governed such activities.

13. Some delegations were of the view that the remaining outstanding issues could be addressed in an accompanying resolution and invited the Coordinator to prepare such a document, for the Working Group's consideration. It was recalled that several precedents existed to support such an approach and that it would be an effective way of dealing with politically difficult issues. However, the view was also expressed that it would be premature to embark on such an undertaking prior to finding a solution to the outstanding issues relating to the draft convention, including on draft article 18.

14. The view was also expressed that, despite the efforts to find consensus, the odds of concluding the draft convention, whether on the basis of the Coordinator's proposal of 2002 or 2007, were unlikely to be improved unless the process itself was placed in a larger context. Accordingly, it was suggested that there was a need to engage in a two-step process, entailing a foreseeable, binding and transparent understanding that would involve, as a first step, the adoption of the draft convention based on the Coordinator's 2007 proposal, and subsequently, as a second step, the convening of a high-level conference. While some delegations welcomed the proposal and considered that it constituted a constructive approach and merited further consideration, some other delegations, while being open-minded, reiterated their view that there was no linkage between the two items and that they should be considered on their own merits.

15. In her statement and reply to the various concerns raised by delegations, the Coordinator reiterated the explanations and clarifications she had previously provided and referred to the reports of the Ad Hoc Committee in 2007 (A/62/37), 2008 (A/63/37), 2009 (A/64/37) and 2010 (A/65/37), and the reports of the Working Group of the Sixth Committee in 2008 (A/C.6/63/SR.14) and 2009 (A/C.6/64/SR.14) (see also section 3 below).

3. Report of the Coordinator on the bilateral contacts at the current session

16. In her statement to the Working Group on 2 November 2010, the Coordinator, Ms. Maria Telalian (Greece), recalled that the purpose of the bilateral contacts that had been held in the margins of the Sixth Committee had been to obtain a better appreciation of the views of delegations, particularly on the outstanding issues relating to the draft comprehensive convention, in light of the elements of an overall package that were made in 2007. She had been especially keen to ascertain whether delegations were in a position to move the process forward towards the finalization of the draft convention.

17. In the Coordinator's overall assessment of her discussions with delegations, there continued to be an interest in completing the draft convention. It was her firm

[c] Adopted on 10 September 2010 by the International Conference on Air Law (Diplomatic Conference on Aviation Security).

belief that a substantial group of members would be satisfied to proceed on the basis of the 2007 elements of an overall package, which, in their view, constituted a viable and legally sound solution to concluding the draft convention. The Coordinator further noted that another group of States, while willing to be engaged in the discussions on the basis of the 2007 elements, reserved its position in the conviction that the earlier proposals made, particularly in 2002, best reflected how their concerns could be overcome. Within this group, one side wanted more time for reflection, while another, before committing itself, wanted to first hear whether those who did not find the 2002 proposal of the Coordinator a suitable compromise, would be willing to accept the 2007 proposal as constituting elements of an overall package. There were also a few States that sought to reopen some issues relating to the scope of application of the convention depending on the final outcome of the negotiations on the 2007 elements of an overall package.

18. The Coordinator recalled that in all the various positions the main concerns had revolved around three issues: (a) the right of peoples to self-determination under international law, in particular the purposes and principles of the Charter of the United Nations and international humanitarian law; (b) activities of armed forces in armed conflict; and (c) activities of military forces of a State in peace time, also taking into account related concerns about "State terrorism". In the overall scheme of the draft convention, draft article 3 [formerly draft article 18] addressed all these aspects and had thus been the central focus of the discussions.

19. Several attempts had been made to clarify the rationale for the 2007 elements of an overall package since it was first presented. These elements, which consisted of a preamble, an addition to article 3 [18], paragraph 4, and a new paragraph 5 of the same article, had been presented following intensive and extensive consultations, in the effort to capture the various concerns of delegations. Any attempt to slice the elements would result in affecting the overall balance that had sought to be achieved. The Coordinator stressed that it was neither in the spirit of the proposal nor in its underlying motivation that the elements would be opened up for delegations to pick and choose which parts they found favourable and to discard those they disliked. The elements were conceived as part of an overall package.

20. The Coordinator stated that the proposed elements were drafted in such a way as to project principles that clarified the relationship between the draft convention and other legal regimes, in particular international humanitarian law, and to safeguard the application of such regimes. The draft convention would not exist in a legal vacuum; it would operate in the context of an overall international legal framework and against the background of general international law.

21. In this context, delegations were reminded that the interpretation and application of the convention were the primary responsibility of the parties to the convention and that, ultimately, it would be for them and consequently their judicial authorities to make interpretations in the light of the specific circumstances in each case in accordance with well-established rules of treaty interpretation.

22. The Coordinator took the opportunity to recall a number of considerations.

(a) An appreciation of draft article 3 [18], whose constituent elements had to be read as a whole, would be incomplete without relating it to the other articles of the draft convention, in particular draft article 2, which provided the criminal law definition of acts of terrorism. The Coordinator reiterated that the draft convention

was a criminal law enforcement instrument intended to assure individual criminal responsibility, informed by enhanced cooperation on the basis of an *aut dedere aut judicare* regime. The core rationale for focusing on the individual had been that other fields of law, in particular the Charter of the United Nations, international humanitarian law and the law relating to the responsibility of States for internationally wrongful acts, adequately covered the obligations of States in situations where acts of violence were perpetrated by States or their agents and that such laws continued to apply to situations pertaining to particular cases.

(b) Paragraph 1 of draft article 2 contained two key terms, namely "unlawful" conduct by "any person", which were decisive in understanding the scope of the convention *ratione personae*. It was explained that in reading draft article 2, together with draft article 3 [18], the latter only carved out from the scope of the convention certain activities that were regulated by other fields of law. Since the draft comprehensive convention would be implemented in the context of an overall international legal framework, the importance of preserving the integrity of those other fields of law was an issue which had been recognized quite early in life of the Ad Hoc Committee.

(c) It was recalled that, paragraph 1 of draft article 3 [18], which set out the overarching principles that underpinned what would be excluded from the scope of the draft convention, including any concerns relating to the right of peoples to self-determination, had not been contentious. The paragraph contained negotiated language which built upon the text of the Terrorist Bombings Convention and did not affect the *jus ad bellum* and *jus in bello*. The Coordinator emphasized that there could not be a clearer statement of principle than that contained in the paragraph, which also provided the context of appreciating the other paragraphs of draft article 3 [18] that dealt with the relationship between the convention and international humanitarian law.

(d) Paragraph 2 contained the key terms "armed forces" and "armed conflict", which were terms governed by international humanitarian law and had, in that context, taken on very specific meanings. By excluding activities of armed forces, there had always been the clear understanding that such activities were governed by other rules of international law. The draft comprehensive convention, or the earlier conventions, did not attempt to rectify any perceived flaws or problems in such other fields of law, and in particular the complexity of problems that existed in international humanitarian law. The Coordinator noted however that international humanitarian law provided principles that offered guidance to States in situations of armed conflict, many of which had been generally accepted, including the principle of the distinction of civilians and non-combatants from combatants, the principle of proportionality, and the principle of prohibition to employ means and methods of warfare of a nature to cause superfluous injury or unnecessary suffering.

(e) The Coordinator observed that in practically all jurisdictions, military forces of a State were subject to codes of conduct, which might include trial by military courts, separate from their civilian counterparts. Under military law, jurisdiction followed the soldier. It was further recognized that when such forces were engaged in peacekeeping operations, different rules of engagement would apply. She recalled that it was these factors that had informed the elaboration of paragraph 3 and similar provisions in earlier instruments. It had always been understood that paragraph 3 of draft article 3 [18] intended to cover both procedural

and substantive aspects and that the phrase "inasmuch as they are governed by other rules of international law" encompassed conduct that was lawful or unlawful under international law.

(f) Paragraph 3, as read with paragraph 4, did not make lawful otherwise unlawful acts. The Coordinator emphasized that such acts, if unlawful did not preclude prosecution under other laws. In order to accentuate further that no impunity was intended and to remove any doubts as to the scope of paragraph 3, as read with paragraph 4, the addition to paragraph 4 as suggested in the elements, together with the additional preamble, sought to stress that there would be an inner core of crimes that should remain punishable irrespective of the regime that would apply.

(g) Paragraph 5 sought to provide a clear delineation between those activities that were governed by international humanitarian law and those covered by the draft convention. The Coordinator observed that the essential aspect of this element was the principle that international humanitarian law was not prejudiced by the present convention nor was the development of that law restrained by the latter. Paragraph 5 consisted of a general "without prejudice" statement and a clarification regarding rules of international law applicable for certain acts which would be lawful under international humanitarian law. The term "lawful" in this context should, from an international humanitarian law perspective, properly be understood with its double negative connotation, i.e., "not unlawful acts" since international humanitarian law did not in a literal sense define which acts would be "lawful", but which acts would be prohibited. However, in view of the need to distinguish those acts that are "unlawful" under paragraph 1 of draft article 2, the term "lawful" in paragraph 5 was used as being more appropriate in the circumstances. In this context, the Coordinator reiterated that the draft convention was not intended to impose international humanitarian law standards on States that would become parties to it if they had not been bound by such standards. The draft convention was neither intended to supersede such obligations, where they already existed, nor to modify them.

(h) It was also recalled that during the discussions there had been a general agreement that civilians would under no circumstances constitute a legitimate target of the use of force, whether during armed conflict or during peacetime.

(i) The Coordinator further noted that the need to address the obligations of States in the elaboration of the draft comprehensive convention had not been avoided. She recalled that the State had an obligation, for instance: (a) to prevent and counter preparations of terrorist activities in its territory; (b) to prohibit activities by persons or groups of persons that encourage, instigate, organize, knowingly finance or engage in the commission of terrorist activities; (c) to prohibit the establishment and operation of installations and training camps for terrorist activities; and (d) to cooperate with each other in the prevention of terrorist offences. These obligations tracked the provisions of the Declaration on Principles of International Law Concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations (General Assembly resolution 2625 (XXV), 24 October 1970), which the International Court of Justice in the *Case concerning armed activities on the territory of the Congo (Democratic Republic of the Congo* v. *Uganda) (Judgement, I.C.J. Reports 2005*, at paragraph 162), had said were declaratory of customary international law.

23. In moving forward, the Coordinator stressed that it would be necessary to capture a number of issues in an accompanying resolution. She recalled that several delegations had commented on the need to outline the elements of such a resolution. Recognizing that it might not be the appropriate time to negotiate such a text, the Coordinator nevertheless suggested, following comments from delegations, that it could take into account some of the following considerations:

(a) It would be necessary for the General Assembly to recall its resolution 49/60 of 9 December 1994, by which it adopted the Declaration on Measures to Eliminate International Terrorism, and resolutions 51/210 of 17 December 1996 and 53/108 of 8 December 1998, which informed the basis of work.

(b) Consideration might be given to the possibility of recalling also the Declaration on Friendly Relations in accordance with the Charter of the United Nations, the importance of which in promoting friendly relations among States had been well recognized.

(c) Although the focus of the draft convention was on individual criminal responsibility, the duties of States were equally important. Accordingly, it was suggested that it might be necessary to give consideration to the possibility of reaffirming the duty of every State to refrain from organizing, instigating, assisting or participating in acts of civil strife or terrorist acts in another State or acquiescing in organized activities within its territory directed towards the commission of such acts, when these acts involved a threat or use of force. The Coordinator reiterated that this was the language of the Declaration on Friendly Relations and that the International Court of Justice in the *Case concerning armed activities on the territory of the Congo* had noted that this duty constituted an obligation under customary international law.

(d) It was also suggested that it might be useful to reaffirm, in the context of combating international terrorism, the importance of maintaining the integrity of international humanitarian law, as well as the importance of respecting human rights in countering terrorism.

(e) The Coordinator further noted that it might also be necessary to capture in the accompanying resolution the element of convening the high-level conference under the auspices of the United Nations and recalled the proposal made by Switzerland of a two-step process concerning the draft convention and the high-level conference (see paragraph 14 above).

24. In concluding her statement, the Coordinator also recalled that the possibility of changing the name of the convention from "comprehensive convention" to "United Nations Convention on the prevention and suppression of international terrorism" would be an important element for consideration in moving forward.

B. Question of the convening of a high-level conference

25. Delegations made statements concerning the question of convening a high-level conference under the auspices of the United Nations during the meeting of the Working Group on 18 October and during the informal consultations held on 21 October 2010. The sponsor delegation of Egypt recalled the origins and reasons behind its proposal to convene a high-level conference. It explained that a plan of action was needed in order to effectively address all aspects of terrorism in a

coordinated and coherent manner. Such a plan of action would strengthen efforts undertaken at the international, regional and national levels. The conference would provide a forum to address all the issues related to the fight against terrorism, including the conditions conducive to its spread, and could contribute to the discussion on the definition of terrorism. It also reiterated that the question should be considered on its own merit, expeditiously, and should not be linked to the conclusion of the draft comprehensive convention. The sponsor delegation further recalled that the proposal had been endorsed by the Movement of Non-Aligned Countries, the Organization of the Islamic Conference, the African Union and the League of Arab States. It also recalled that both the 2005 World Summit Outcome and the United Nations Global Counter-Terrorism Strategy acknowledged that the question of convening a high-level conference could be considered.

26. Some delegations reiterated their support for the proposal by the Egyptian delegation and expressed their view that the convening of a high-level conference and the conclusion of the draft convention were not mutually exclusive, but should be considered in parallel. The conference could facilitate the negotiations on the draft convention and mobilize the necessary political will to finalize it, as well as address broader issues regarding international terrorism than those dealt with in the draft convention. Some other delegations, while supporting the convening of the conference in principle, questioned its timing. Some delegations reiterated their position that the conference should be discussed only following agreement on the draft comprehensive convention, which should be the focus of the Working Group.

United Nations A/C.6/65/L.11

General Assembly

Distr.: Limited
29 October 2010

Original: English

Sixty-fifth session
Sixth Committee
Agenda item 161
Report of the Committee on Relations with the Host Country

Bulgaria, Canada, Costa Rica, Côte d'Ivoire and Cyprus: draft resolution

Report of the Committee on Relations with the Host Country

The General Assembly,

Having considered the report of the Committee on Relations with the Host Country,[1]

Recalling Article 105 of the Charter of the United Nations, the Convention on the Privileges and Immunities of the United Nations,[2] the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations[3] and the responsibilities of the host country,

Recalling also that, in accordance with paragraph 7 of General Assembly resolution 2819 (XXVI) of 15 December 1971, the Committee should consider, and advise the host country on, issues arising in connection with the implementation of the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations,

Recognizing that effective measures should continue to be taken by the competent authorities of the host country, in particular to prevent any acts violating the security of missions and the safety of their personnel,

1. *Endorses* the recommendations and conclusions of the Committee on Relations with the Host Country contained in paragraph 21 of its report;[1]

2. *Considers* that the maintenance of appropriate conditions for the normal work of the delegations and the missions accredited to the United Nations and the observance of their privileges and immunities, which is an issue of great importance, are in the interest of the United Nations and all Member States, and requests the host country to continue to solve, through negotiations, problems that might arise and to take all measures necessary to prevent any interference with the functioning of missions; and urges the host country to continue to take appropriate action, such as training of police, security, customs and border control officers, with

[1] *Official Records of the General Assembly, Sixty-fifth Session, Supplement No. 26* (A/65/26).
[2] Resolution 22 A (I).
[3] See resolution 169 (II).

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a view to maintaining respect for diplomatic privileges and immunities and if violations occur to ensure that such cases are properly investigated and remedied, in accordance with applicable law;

3. *Notes* the problems experienced by some permanent missions in connection with the implementation of the Parking Programme for Diplomatic Vehicles[4] and notes that the Committee shall remain seized of the matter, with a view to continuing to maintain the proper implementation of the Parking Programme in a manner that is fair, non-discriminatory, effective and therefore consistent with international law;

4. *Requests* the host country to consider removing the remaining travel restrictions imposed by it on staff of certain missions and staff members of the Secretariat of certain nationalities, and, in this regard, notes the long-standing positions of affected States, of the Secretary-General and of the host country;

5. *Notes* the concerns expressed by some delegations concerning the denial and delay of entry visas to representatives of Member States;

6. *Notes also* that the Committee anticipates that the host country will enhance its efforts to ensure the issuance of entry visas, in a timely manner, to representatives of Member States, pursuant to article IV, section 11, of the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations[3] to travel to New York on United Nations business; and notes that the Committee anticipates that the host country will enhance efforts, including visa issuance, to facilitate the participation of representatives of Member States in other United Nations meetings as appropriate;

7. *Notes further* that a number of delegations have requested shortening the time frame applied by the host country for issuance of entry visas to representatives of Member States, since this time frame poses difficulties for the full-fledged participation of Member States in United Nations meetings;

8. *Expresses its appreciation* for the efforts made by the host country, and hopes that the issues raised at the meetings of the Committee will continue to be resolved in a spirit of cooperation and in accordance with international law;

9. *Affirms* the importance of the Committee being in a position to fulfil its mandate and meet on short notice to deal with urgent and important matters concerning the relations between the United Nations and the host country, and in that connection requests the Secretariat and the Committee on Conferences to accord priority to requests from the Committee on Relations with the Host Country for conference-servicing facilities for meetings of that Committee that must be held while the General Assembly and its Main Committees are meeting, without prejudice to the requirements of those bodies and on an "as available" basis;

10. *Requests* the Secretary-General to remain actively engaged in all aspects of the relations of the United Nations with the host country;

11. *Requests* the Committee to continue its work in conformity with General Assembly resolution 2819 (XXVI);

12. *Decides* to include in the provisional agenda of its sixty-sixth session the item entitled "Report of the Committee on Relations with the Host Country".

[4] A/AC.154/355, annex.

United Nations A/C.6/65/L.12

General Assembly

Distr.: Limited
29 October 2010

Original: English

Sixty-fifth session
Sixth Committee
Agenda item 84
Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

Draft resolution

Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

The General Assembly,

Recalling its resolution 3499 (XXX) of 15 December 1975, by which it established the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, and its relevant resolutions adopted at subsequent sessions,

Recalling also its resolution 47/233 of 17 August 1993 on the revitalization of the work of the General Assembly,

Recalling further its resolution 47/62 of 11 December 1992 on the question of equitable representation on and increase in the membership of the Security Council,

Taking note of the report of the Open-ended Working Group on the Question of Equitable Representation on and Increase in the Membership of the Security Council and Other Matters related to the Security Council,[1]

Recalling the elements relevant to the work of the Special Committee contained in its resolution 47/120 B of 20 September 1993,

Recalling also its resolution 51/241 of 31 July 1997 on the strengthening of the United Nations system and its resolution 51/242 of 15 September 1997, entitled "Supplement to an Agenda for Peace", by which it adopted the texts on coordination and the question of sanctions imposed by the United Nations, which are annexed to that resolution,

[1] *Official Records of the General Assembly, Sixty-third Session, Supplement No. 47* (A/63/47).

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Concerned about the special economic problems confronting certain States arising from the carrying out of preventive or enforcement measures taken by the Security Council against other States, and taking into account the obligation of Members of the United Nations under Article 49 of the Charter of the United Nations to join in affording mutual assistance in carrying out the measures decided upon by the Council,

Recalling the right of third States confronted with special economic problems of that nature to consult the Security Council with regard to a solution of those problems, in accordance with Article 50 of the Charter,

Recalling also that the International Court of Justice is the principal judicial organ of the United Nations, and reaffirming its authority and independence,

Mindful of the adoption of the revised working papers on the working methods of the Special Committee,[2]

Taking note of the report of the Secretary-General on the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*,[3]

Taking note also of paragraphs 106 to 110, 176 and 177 of the 2005 World Summit Outcome,[4]

Mindful of the decision of the Special Committee in which it expressed its readiness to engage, as appropriate, in the implementation of any decisions that might be taken at the High-level Plenary Meeting of the sixtieth session of the General Assembly in September 2005 that concerned the Charter and any amendments thereto,[5]

Recalling the provisions of its resolutions 50/51 of 11 December 1995, 51/208 of 17 December 1996, 52/162 of 15 December 1997, 53/107 of 8 December 1998, 54/107 of 9 December 1999, 55/157 of 12 December 2000, 56/87 of 12 December 2001, 57/25 of 19 November 2002, 58/80 of 9 December 2003 and 59/45 of 2 December 2004,

Recalling also its resolution 64/115 of 16 December 2009, and the document entitled "Introduction and implementation of sanctions imposed by the United Nations" annexed to that resolution,

Having considered the report of the Special Committee on the work of its session held in 2010,[6]

Noting with appreciation the work done by the Special Committee to encourage States to focus on the need to prevent and to settle peacefully their disputes which are likely to endanger the maintenance of international peace and security,

1. *Takes note* of the report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization;[6]

2. *Decides* that the Special Committee shall hold its next session from 28 February to 4 March, and on 7 and 9 March 2011;

[2] Ibid., *Sixty-first Session, Supplement No. 33* (A/61/33), para. 72.
[3] A/65/214.
[4] See resolution 60/1.
[5] *Official Records of the General Assembly, Sixtieth Session, Supplement No. 33* (A/60/33), para. 77.
[6] Ibid., *Sixty-fifth Session, Supplement No. 33* (A/65/33).

3. *Requests* the Special Committee, at its session in 2011, in accordance with paragraph 5 of General Assembly resolution 50/52 of 11 December 1995:

(a) To continue its consideration of all proposals concerning the question of the maintenance of international peace and security in all its aspects in order to strengthen the role of the United Nations, and, in this context, to consider other proposals relating to the maintenance of international peace and security already submitted or which may be submitted to the Special Committee at its session in 2011;

(b) To continue to consider, on a priority basis and in an appropriate substantive manner and framework, the question of the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter based on all of the related reports of the Secretary-General[7] and the proposals submitted on the question;

(c) To keep on its agenda the question of the peaceful settlement of disputes between States;

(d) To consider, as appropriate, any proposal referred to it by the General Assembly in the implementation of the decisions of the High-level Plenary Meeting of the sixtieth session of the Assembly in September 2005 that concern the Charter and any amendments thereto;

(e) To continue to consider, on a priority basis, ways and means of improving its working methods and enhancing its efficiency with a view to identifying widely acceptable measures for future implementation;

4. *Invites* the Special Committee at its session in 2011 to continue to identify new subjects for consideration in its future work with a view to contributing to the revitalization of the work of the United Nations;

5. *Takes note* of the new subjects proposed at the session of the Special Committee which was held from 1 to 9 March 2010;

6. *Notes* the readiness of the Special Committee to provide, within its mandate, such assistance as may be sought at the request of other subsidiary bodies of the General Assembly in relation to any issues before them;

7. *Requests* the Special Committee to submit a report on its work to the General Assembly at its sixty-sixth session;

8. *Recognizes* the important role of the International Court of Justice, the principal judicial organ of the United Nations, in adjudicating disputes among States and the value of its work, as well as the importance of having recourse to the Court in the peaceful settlement of disputes, takes note, consistent with Article 96 of the Charter, of the Court's advisory jurisdiction that may be requested by the General Assembly, the Security Council or other authorized organs of the United Nations and the specialized agencies, and requests the Secretary-General to distribute, in due course, the advisory opinions requested by the principal organs of the United Nations as official documents of the United Nations;

[7] A/48/573-S/26705, A/49/356, A/50/60-S/1995/1, A/50/361, A/50/423, A/51/317, A/52/308, A/53/312, A/54/383 and Add.1, A/55/295 and Add.1, A/56/303, A/57/165 and Add.1, A/58/346, A/59/334, A/60/320, A/61/304, A/62/206 and Corr.1, A/63/224, A/64/225 and A/65/217.

9. *Commends* the Secretary-General for the progress made in the preparation of studies of the *Repertory of Practice of United Nations Organs*, including the increased use of the internship programme of the United Nations and further expanded cooperation with academic institutions for this purpose, as well as the progress made towards updating the *Repertoire of the Practice of the Security Council*;

10. *Notes with appreciation* the contributions made by Member States to the trust fund for the updating of the *Repertoire*, as well as the trust fund for the elimination of the backlog in the *Repertory*;

11. *Reiterates* its call for voluntary contributions to the trust fund for the updating of the *Repertoire*; voluntary contributions to the trust fund for the elimination of the backlog in the *Repertory* so as to further support the Secretariat in carrying out the effective elimination of that backlog; as well as the sponsoring, on a voluntary basis, and with no cost to the United Nations, of associate experts to assist in the updating of the two publications;

12. *Calls upon* the Secretary-General to continue his efforts towards updating the two publications and making them available electronically in all their respective language versions, and to address in particular the backlog in the preparation of volume III of the *Repertory*;

13. *Reiterates* the responsibility of the Secretary-General for the quality of the *Repertory* and the *Repertoire*, and with regard to the *Repertoire*, calls upon the Secretary-General to continue to follow the modalities outlined in paragraphs 102 to 106 of the report of the Secretary-General of 18 September 1952;[8]

14. *Requests* the Secretary-General to submit a report on both the *Repertory* and the *Repertoire* to the General Assembly at its sixty-sixth session;

15. *Also requests* the Secretary-General to brief the Special Committee at its next session on the information referred to in paragraph 11 of his report on the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions;[9]

16. *Further requests* the Secretary-General to submit a report on the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions to the General Assembly at its sixty-sixth session, under the item entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization";

17. *Decides* to include in the provisional agenda of its sixty-sixth session the item entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization".

[8] A/2170.
[9] A/65/217.

United Nations A/C.6/65/L.13

General Assembly

Distr.: Limited
29 October 2010

Original: English

Sixty-fifth session
Sixth Committee
Agenda item 81
Consideration of prevention of transboundary harm from hazardous activities and allocation of loss in the case of such harm

Draft resolution

Consideration of prevention of transboundary harm from hazardous activities and allocation of loss in the case of such harm

The General Assembly,

Recalling its resolutions 56/82 of 12 December 2001, 61/36 of 4 December 2006, the annex to which contains the text of the principles on allocation of loss in the case of transboundary harm arising out of hazardous activities, and 62/68 of 6 December 2007, the annex to which contains the text of the draft articles on prevention of transboundary harm from hazardous activities,

Emphasizing the continuing importance of the codification and progressive development of international law, as referred to in Article 13, paragraph 1 (*a*), of the Charter of the United Nations,

Noting that the questions of prevention of transboundary harm from hazardous activities and allocation of loss in the case of such harm are of major importance in the relations of States,

Taking into account the views and comments expressed in the Sixth Committee at the previous and current sessions,[1]

1. *Commends once again* the articles on prevention of transboundary harm from hazardous activities, presented by the Commission, the text of which was annexed to General Assembly resolution 62/68, to the attention of Governments, without prejudice to any future action, as recommended by the Commission regarding the articles;

2. *Also commends once again* the principles on the allocation of loss in the case of transboundary harm arising out of hazardous activities, presented by the

[1] See also the report of the Secretary-General (A/65/184 and Add.1).

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Commission, the text of which was annexed to General Assembly resolution 61/36, to the attention of Governments, without prejudice to any future action, as recommended by the Commission regarding the principles;

3. *Invites* Governments to submit further comments on any future action, in particular on the form of the respective articles and principles, bearing in mind the recommendations made by the Commission in that regard, including in relation to the elaboration of a convention on the basis of the draft articles, as well as on any practice in relation to the application of the articles and principles;

4. *Requests* the Secretary-General to submit a compilation of decisions of international courts, tribunals and other bodies referring to the articles and the principles;

5. *Decides* to include in the provisional agenda of its sixty-eighth session the item entitled "Consideration of prevention of transboundary harm from hazardous activities and allocation of loss in the case of such harm".

United Nations A/C.6/65/L.14

General Assembly

Distr.: Limited
1 November 2010

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Sixty-fifth session
Sixth Committee
Agenda item 83
Consideration of effective measures to enhance the protection, security and safety of diplomatic and consular missions and representatives

Argentina, Australia, Austria, Belgium, Bulgaria, Chile, Colombia, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Estonia, Fiji, Finland, France, Germany, Ghana, Greece, Hungary, Iceland, Ireland, Israel, Italy, Liechtenstein, Luxembourg, Madagascar, Mexico, Montenegro, Netherlands, New Zealand, Norway, Paraguay, Peru, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Serbia, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland and United Kingdom of Great Britain and Northern Ireland: draft resolution

Consideration of effective measures to enhance the protection, security and safety of diplomatic and consular missions and representatives

The General Assembly,

Having considered the report of the Secretary-General,[1]

Conscious of the need to develop and strengthen friendly relations and cooperation among States,

Convinced that respect for the principles and rules of international law governing diplomatic and consular relations is a basic prerequisite for the normal conduct of relations among States and for the fulfilment of the purposes and principles of the Charter of the United Nations,

Alarmed by the new and recurring acts of violence against diplomatic and consular representatives, as well as against representatives of international intergovernmental organizations and officials of such organizations, which endanger and take innocent lives and seriously impede the normal work of such representatives and officials,

[1] A/65/112 and Add.1.

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Expressing sympathy for the victims of such illegal acts,

Concerned at the failure to respect the inviolability of diplomatic and consular missions and representatives,

Recalling that, without prejudice to their privileges and immunities, it is the duty of all persons enjoying such privileges and immunities to respect the laws and regulations of the receiving State,

Recalling also that diplomatic and consular premises must not be used in any manner incompatible with the functions of diplomatic and consular missions,

Emphasizing the duty of States to take all appropriate measures as required by international law in a timely manner, including measures of a preventive nature, and to bring offenders to justice,

Welcoming measures already taken by States to this end in conformity with their international obligations,

Convinced that the role of the United Nations, which includes the reporting procedures established pursuant to General Assembly resolution 35/168 of 15 December 1980 and further elaborated in subsequent Assembly resolutions, is important in promoting efforts to enhance the protection, security and safety of diplomatic and consular missions and representatives,

1. *Welcomes* the latest report of the Secretary-General;[1]

2. *Strongly condemns* acts of violence against diplomatic and consular missions and representatives, as well as against missions and representatives of international intergovernmental organizations and officials of such organizations, and emphasizes that such acts can never be justified;

3. *Urges* States to strictly observe, implement and enforce the applicable principles and rules of international law governing diplomatic and consular relations, including during a period of armed conflict, and, in particular, to ensure, in conformity with their international obligations, the protection, security and safety of the missions, representatives and officials mentioned in paragraph 2 above officially present in territories under their jurisdiction, including practical measures to prevent and prohibit in their territories illegal activities of persons, groups and organizations that encourage, instigate, organize or engage in the perpetration of acts against the security and safety of such missions, representatives and officials;

4. *Also urges* States to take all appropriate measures at the national and international levels to prevent any acts of violence against the missions, representatives and officials mentioned in paragraph 2 above, including during a period of armed conflict, and to ensure, with the participation of the United Nations where appropriate, that such acts are fully investigated with a view to bringing offenders to justice;

5. *Recommends* that States cooperate closely through, inter alia, contacts between the diplomatic and consular missions and the receiving State with regard to practical measures designed to enhance the protection, security and safety of diplomatic and consular missions and representatives, including measures of a preventive nature, and with regard to the timely exchange of information on the circumstances of all serious violations thereof;

6. *Urges* States to take all appropriate measures, in accordance with international law, at the national and international levels, to prevent any abuse of diplomatic or consular privileges and immunities, in particular serious abuses, including those involving acts of violence;

7. *Recommends* that States cooperate closely with the State in whose territory abuses of diplomatic and consular privileges and immunities may have occurred, including by exchanging information and providing assistance to its juridical authorities in order to bring offenders to justice;

8. *Calls upon* States that have not yet done so to consider becoming parties to the instruments relevant to the protection, security and safety of diplomatic and consular missions and representatives;

9. *Calls upon* States, in cases where a dispute arises in connection with a violation of their international obligations concerning the protection of the missions or the security of the representatives and officials mentioned in paragraph 2 above, to make use of the means available for peaceful settlement of disputes, including the good offices of the Secretary-General, and requests the Secretary-General, when he deems it appropriate, to offer his good offices to the States directly concerned;

10. *Urges*:

(a) All States to report to the Secretary-General, in a concise and expeditious manner and in accordance with the guidelines prepared by the Secretary-General,[2] serious violations of the protection, security and safety of diplomatic and consular missions and representatives as well as missions and representatives with diplomatic status to international intergovernmental organizations;

(b) The State in which the violation took place — and, to the extent possible, the State where the alleged offender is present — to report to the Secretary-General, in a concise and expeditious manner and in accordance with the guidelines prepared by the Secretary-General,[2] on measures taken to bring the offender to justice and eventually to communicate, in accordance with its laws, the final outcome of the proceedings against the offender, and to report on measures adopted with a view to preventing a repetition of such violations;

11. *Requests* the Secretary-General:

(a) To send, without delay, a circular note to all States reminding them of the request contained in paragraph 10 above;

(b) To circulate to all States, upon receipt, the reports received by him pursuant to paragraph 10 above, unless the reporting State requests otherwise;

(c) To draw the attention, when appropriate, of the States directly concerned to the reporting procedures provided for in paragraph 10 above, when a serious violation has been reported pursuant to subparagraph 10 (a) above;

(d) To address reminders to States where such violations have occurred if reports pursuant to subparagraph 10 (a) above or follow-up reports pursuant to subparagraph 10 (b) above have not been made within a reasonable period of time;

[2] A/42/485, annex.

12. *Also requests* the Secretary-General to invite States, in the circular note referred to in subparagraph 11 (a) above, to inform him of their views with respect to any measures needed or already taken to enhance the protection, security and safety of diplomatic and consular missions and representatives as well as missions and representatives with diplomatic status to international intergovernmental organizations;

13. *Further requests* the Secretary-General to submit to the General Assembly at its sixty-seventh session a report containing:

(a) Information on the state of ratification of, and accessions to, the instruments referred to in paragraph 8 above;

(b) A summary of the reports received and views expressed pursuant to paragraphs 10 and 12 above;

14. *Invites* the Secretary-General to include in his report to the General Assembly any views he may wish to express on the matters referred to in paragraph 13 above;

15. *Decides* to include in the provisional agenda of its sixty-seventh session the item entitled "Consideration of effective measures to enhance the protection, security and safety of diplomatic and consular missions and representatives".

United Nations A/C.6/65/L.15

General Assembly

Distr.: Limited
2 November 2010

Original: English

Sixty-fifth session
Sixth Committee
Agenda item 82
Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts

Albania, Argentina, Australia, Austria, Belgium, Brazil, Bulgaria, Canada, Chile, Congo, Costa Rica, Croatia, Cyprus, Czech Republic, Democratic Republic of the Congo, Denmark, El Salvador, Estonia, Finland, France, Germany, Ghana, Greece, Guatemala, Hungary, Iceland, Ireland, Italy, Jordan, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malta, Mexico, Monaco, Montenegro, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Peru, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Senegal, Serbia, Slovakia, Slovenia, Spain, Swaziland, Sweden, Switzerland, Trinidad and Tobago, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania and Venezuela (Bolivarian Republic of): draft resolution

Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts

The General Assembly,

Recalling its biennial resolutions on the status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts, including resolution 63/125 of 11 December 2008,

Having considered the report of the Secretary-General,[1]

Reaffirming the continuing value of established humanitarian rules relating to armed conflicts and the need to respect and ensure respect for those rules in all circumstances within the scope of the relevant international instruments, pending the earliest possible termination of such conflicts,

Stressing the need to consolidate the existing body of international humanitarian law through its universal acceptance and the need for wide dissemination and full implementation of such law at the national level, and expressing concern about all violations of the Geneva Conventions[2] and the Additional Protocols,[3]

[1] A/65/138 and Add.1.
[2] United Nations, *Treaty Series*, vol. 75, Nos. 970-973.
[3] Ibid., vol. 1125, Nos. 17512 and 17513, and vol. 2404, No. 43425.

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Calling upon Member States to disseminate knowledge of international humanitarian law as widely as possible, and calling upon all parties to armed conflict to apply international humanitarian law,

Noting with satisfaction the increasing number of national commissions and other bodies involved in advising authorities at the national level on the implementation, dissemination and development of international humanitarian law,

Noting with appreciation the meetings of representatives of those bodies organized by the International Committee of the Red Cross to facilitate the sharing of concrete experience and the exchange of views on their roles and on the challenges they face,

Stressing the possibility of making use of the International Humanitarian Fact-Finding Commission in relation to an armed conflict, pursuant to article 90 of Protocol I[4] to the Geneva Conventions of 1949,

Stressing also the possibility for the International Humanitarian Fact-Finding Commission to facilitate, through its good offices, the restoration of an attitude of respect for the Geneva Conventions and Protocol I,

Taking note of the fact that in paragraphs 8 and 9 of its resolution 1894 of 11 November 2009, the Security Council noted the range of existing methods used, on a case-by-case basis, for gathering information on alleged violations of applicable international law relating to the protection of civilians, underlined the importance in that regard of receiving information that is timely, objective, accurate and reliable, and considered the possibility, to that end, of using the International Humanitarian Fact-Finding Commission established by article 90 of Protocol I,

Mindful of the role of the International Committee of the Red Cross in offering protection to the victims of armed conflicts,

Noting with appreciation the continuing efforts of the International Committee of the Red Cross to promote and disseminate knowledge of international humanitarian law, in particular the Geneva Conventions and the Additional Protocols,

Noting the special responsibilities of national Red Cross and Red Crescent societies, as auxiliaries to the public authorities of their respective States in the humanitarian field, to cooperate with and assist their Governments in the promotion, dissemination and implementation of international humanitarian law,

Noting also that the year 2009 marked the sixtieth anniversary of the adoption of the Geneva Conventions and welcoming the various high-level meetings and seminars organized to celebrate that event, which gave new momentum to efforts to strengthen and improve implementation of international humanitarian law,

Calling on Member States to actively participate in the Thirty-first International Conference of the Red Cross and Red Crescent to be held in Geneva in November 2011,

Noting the serious concern expressed by States regarding the humanitarian impact caused by cluster munitions, and taking note of the entry into force of the Convention on Cluster Munitions[5] on 1 August 2010 and the ongoing negotiation of

[4] Ibid., vol. 1125, No. 17512.

[5] See A/C.1/63/5, enclosure, part II.

a proposal on this subject within the context of the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects,

Welcoming the significant debate generated by the publication in 2005 of the study by the International Committee of the Red Cross on Customary International Humanitarian Law and recent initiatives by the Committee, including the online launch of the updated study, as well as the growing number of translations into other languages of parts of the study, and looking forward to further constructive discussion on the subject,

Acknowledging the fact that the Rome Statute of the International Criminal Court[6] includes the most serious crimes of international concern under international humanitarian law, and that the Statute, while recalling that it is the duty of every State to exercise its criminal jurisdiction over those responsible for such crimes, shows the determination of the international community to put an end to impunity for the perpetrators of such crimes and thus to contribute to their prevention,

Noting the amendment to article 8 of the Rome Statute of the International Criminal Court, relating to war crimes under the Statute, adopted at the Review Conference of the Rome Statute of the International Criminal Court, held in Kampala on 10 June 2010,[7]

Acknowledging the usefulness of discussing in the General Assembly the status of instruments of international humanitarian law relevant to the protection of victims of armed conflicts,

1. *Welcomes* the universal acceptance of the Geneva Conventions of 1949, and notes the trend towards a similarly wide acceptance of the two Additional Protocols of 1977;

2. *Calls upon* all States parties to the Geneva Conventions that have not yet done so to consider becoming parties to the Additional Protocols at the earliest possible date;

3. *Calls upon* all States that are already parties to Protocol I, or those States not parties, on becoming parties to Protocol I, to make the declaration provided for under article 90 of that Protocol and to consider making use, where appropriate, of the services of the International Humanitarian Fact-Finding Commission in accordance with the provisions of article 90 of Protocol I;

4. *Calls upon* all States that have not yet done so to consider becoming parties to the Convention for the Protection of Cultural Property in the Event of Armed Conflict and the two Protocols thereto,[8] and to other relevant treaties on international humanitarian law relating to the protection of victims of armed conflict;

5. *Calls upon* States to consider becoming parties to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict;[9]

[6] United Nations, *Treaty Series*, vol. 2187, No. 38544.

[7] RC/Res.5, adopted by the Review Conference.

[8] United Nations, *Treaty Series*, vol. 249, No. 3511 and vol. 2253, No. 3511.

[9] Ibid., vol. 2173, No. 27531.

6. *Calls upon* all States parties to the Protocols Additional to the Geneva Conventions to ensure their wide dissemination and full implementation;

7. *Affirms* the necessity of making the implementation of international humanitarian law more effective, and supports its further strengthening and development;

8. *Notes with appreciation* the adoption by the Thirtieth International Conference of the Red Cross and Red Crescent of resolution 3, on the reaffirmation and implementation of international humanitarian law, entitled "Preserving human life and dignity in armed conflict", which, inter alia, reiterates the obligation of States to take national measures to implement international humanitarian law, including training of the armed forces and making this law known among the general public, as well as the adoption of legislation to punish war crimes in accordance with their international obligations;

9. *Welcomes* the activities of the Advisory Service on International Humanitarian Law of the International Committee of the Red Cross in supporting efforts made by Member States to take legislative and administrative action to implement international humanitarian law and in promoting the exchange of information on those efforts between Governments, and notes in particular the new manual on domestic implementation of international humanitarian law;

10. *Also welcomes* the increasing number of national commissions or committees for the implementation of international humanitarian law and for promoting the incorporation of treaties on international humanitarian law into national law and disseminating the rules of international humanitarian law;

11. *Requests* the Secretary-General to submit to the General Assembly at its sixty-seventh session a report on the status of the Additional Protocols relating to the protection of victims of armed conflicts, as well as on measures taken to strengthen the existing body of international humanitarian law, inter alia, with respect to its dissemination and full implementation at the national level, based on information received from Member States and the International Committee of the Red Cross;

12. *Encourages* Member States and the International Committee of the Red Cross, in transmitting information to the Secretary-General, to focus on new developments and activities during the reporting period;

13. *Encourages* Member States to explore ways of facilitating the submission of information for future reports of the Secretary-General and, in this context, to consider the convenience of drawing up guidelines or a questionnaire by Member States, where necessary with the assistance of the International Committee of the Red Cross, upon the request of Member States and, as appropriate, in consultation with the Secretariat;

14. *Decides* to include in the provisional agenda of its sixty-seventh session the item entitled "Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts".

United Nations A/C.6/65/L.16

General Assembly

Distr.: Limited
3 November 2010

Original: English

Sixty-fifth session
Sixth Committee
Agenda item 78
United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law

Draft resolution

United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law

The General Assembly,

Recalling its resolution 2099 (XX) of 20 December 1965, in which it established the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law to contribute towards a better knowledge of international law as a means of strengthening international peace and security and of promoting friendly relations and cooperation among States,

Reaffirming that the Programme of Assistance is a core activity of the United Nations and that the Programme has provided the foundation for the efforts of the United Nations to promote a better knowledge of international law for nearly half a century,

Reaffirming also that the increasing demand for international law training and dissemination activities creates new challenges for the Programme of Assistance,

Taking note with appreciation of the report of the Secretary-General on the implementation of the Programme of Assistance[1] and the views of the Advisory Committee on the Programme of Assistance, which are contained in that report,

Noting with concern the reduction in the programme budget for the biennium 2010-2011 for fellowships for the benefit of developing countries indicated in the report of the Secretary-General notwithstanding its resolution 64/113 of 16 December 2009,

Considering that international law should occupy an appropriate place in the teaching of legal disciplines at all universities,

[1] A/65/514.

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Please recycle

Convinced that States, international and regional organizations, universities and institutions should be encouraged to give further support to the Programme of Assistance and increase their activities to promote the teaching, study, dissemination and wider appreciation of international law, in particular those activities which are of special benefit to persons from developing countries,

Reaffirming that in the conduct of the Programme of Assistance it would be desirable to use as far as possible the resources and facilities made available by Member States, international and regional organizations, universities, institutions and others,

Reaffirming also the hope that, in appointing lecturers for the seminars to be held within the framework of the fellowship programmes in international law, account would be taken of the need to secure the representation of major legal systems and balance among various geographical regions,

1. *Reiterates* its authorization for the Secretary-General to carry out in 2011 the activities specified in the report he submitted to the General Assembly at its sixty-fourth session,[2] in accordance with the guidelines and recommendations contained therein, including the provision of:

(a) A number of fellowships to be determined in the light of the overall resources for the Programme of Assistance and to be awarded to qualified candidates from developing countries to attend the International Law Fellowship Programme in The Hague in 2011;

(b) A number of fellowships to be determined in the light of the overall resources for the Programme of Assistance and to be awarded to qualified candidates from developing countries to attend regional courses in international law in 2011;

and to finance the above activities from provisions in the regular budget, when appropriate, as well as from voluntary financial contributions for these fellowships, which would be received as a result of the requests set out in paragraphs 18 to 20 below;

2. *Also authorizes* the Secretary-General to award a minimum of one scholarship in 2011 under the Hamilton Shirley Amerasinghe Memorial Fellowship on the Law of the Sea, subject to the availability of new voluntary contributions made specifically for this fellowship;

3. *Expresses its appreciation* to the Secretary-General for the efforts to strengthen, expand and enhance the international law training and dissemination activities within the framework of the Programme of Assistance in 2010;

4. *Requests* the Secretary-General to consider admitting, for participation in the various components of the Programme of Assistance, candidates from countries willing to bear the entire cost of such participation;

5. *Also requests* the Secretary-General to continue to provide the necessary resources to the programme budget for the Programme of Assistance to ensure its continued effectiveness in 2011 in accordance with resolution 64/113;

[2] A/64/495.

6. *Further requests* the Secretary-General to continue to provide the necessary resources to the programme budget for the Programme of Assistance for the next and the future bienniums to ensure the continued effectiveness and further development of the Programme of Assistance, in particular the organization of regional courses in international law on a regular basis and the viability of the United Nations Audiovisual Library of International Law, taking into account paragraph 65 of his report;[3]

7. *Recognizes* the importance of the United Nations legal publications prepared by the Office of Legal Affairs of the Secretariat, and strongly encourages their continued publication;

8. *Welcomes* the efforts undertaken by the Office of Legal Affairs to bring up to date the United Nations legal publications, and, in particular, commends the Codification Division for its desktop publishing initiative, which has greatly enhanced the timely issuance of its legal publications;

9. *Encourages* the Office of Legal Affairs to continue to maintain and expand its websites listed in annex I to the report of the Secretary-General[3] as an invaluable tool for the dissemination of international law materials as well as for advanced legal research;

10. *Recognizes* the importance of the United Nations Audiovisual Library of International Law as a major contribution to the teaching and dissemination of international law around the world, and urges States to make voluntary contributions to enable the Codification Division to continue and further develop the Library;

11. *Encourages* the use of interns and research assistants for the preparation of materials for the United Nations Audiovisual Library of International Law;

12. *Welcomes* the training and technical assistance activities in international law undertaken by the Office of Legal Affairs in the framework of the Programme of Assistance, as described in the report of the Secretary-General, and encourages the continuation of such activities within available resources;

13. *Commends* the Codification Division for the cost-saving measures undertaken with regard to the International Law Fellowship Programme to maintain the number of fellowships available for this comprehensive international law training programme;

14. *Expresses its appreciation* to The Hague Academy of International Law for the valuable contribution it continues to make to the Programme of Assistance, which has enabled candidates under the International Law Fellowship Programme to attend and participate in the Fellowship Programme in conjunction with the Academy courses;

15. *Notes with appreciation* the contributions of The Hague Academy to the teaching, study, dissemination and wider appreciation of international law, and calls upon Member States and interested organizations to give favourable consideration to the appeal of the Academy for a continuation of support and a possible increase in their financial contributions, to enable the Academy to carry out its activities, particularly those relating to the summer courses, regional courses and programmes

[3] A/65/514.

of the Centre for Studies and Research in International Law and International Relations;

16. *Welcomes* the efforts of the Codification Division to revitalize and to conduct the regional courses in international law as an important training activity;

17. *Expresses its appreciation* to the Republic of Korea and the Federal Democratic Republic of Ethiopia for hosting regional courses in international law in Seoul in 2010 and in Addis Ababa in 2011;

18. *Requests* the Secretary-General to continue to publicize the Programme of Assistance and periodically to invite Member States, universities, philanthropic foundations and other interested national and international institutions and organizations, as well as individuals, to make voluntary contributions towards the financing of the Programme of Assistance or otherwise to assist in its implementation and possible expansion;

19. *Reiterates its request* to Member States and to interested organizations, institutions and individuals to make voluntary contributions, inter alia, for the International Law Fellowship Programme and the United Nations Audiovisual Library of International Law, and expresses its appreciation to those Member States, institutions and individuals that have made voluntary contributions for this purpose;

20. *Urges* in particular all Governments to make voluntary contributions for regional courses in international law, as an important complement to the International Law Fellowship Programme, organized by the Codification Division of the Office of Legal Affairs, thus alleviating the burden on prospective host countries and making it possible to conduct the regional courses on a regular basis;

21. *Requests* the Secretary-General to report to the General Assembly at its sixty-sixth session on the implementation of the Programme of Assistance during 2011, including information on the request contained in paragraph 5 above;

22. *Further requests* the Secretary-General, following consultations with the Advisory Committee on the Programme of Assistance, to submit recommendations regarding the execution of the Programme of Assistance in subsequent years;

23. *Decides* to include in the provisional agenda of its sixty-sixth session the item entitled "United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law".

United Nations A/C.6/65/L.17

General Assembly

Distr.: Limited
4 November 2010

Original: English

Sixty-fifth session
Agenda item 85
The rule of law at the national and international levels

Draft resolution

The rule of law at the national and international levels

The General Assembly,

Recalling its resolution 64/116 of 16 December 2009,

Reaffirming its commitment to the purposes and principles of the Charter of the United Nations and international law, which are indispensable foundations of a more peaceful, prosperous and just world, and reiterating its determination to foster strict respect for them and to establish a just and lasting peace all over the world,

Reaffirming that human rights, the rule of law and democracy are interlinked and mutually reinforcing and that they belong to the universal and indivisible core values and principles of the United Nations,

Reaffirming also the need for universal adherence to and implementation of the rule of law at both the national and international levels and its solemn commitment to an international order based on the rule of law and international law, which, together with the principles of justice, is essential for peaceful coexistence and cooperation among States,

Convinced that the advancement of the rule of law at the national and international levels is essential for the realization of sustained economic growth, sustainable development, the eradication of poverty and hunger and the protection of all human rights and fundamental freedoms, and acknowledging that collective security depends on effective cooperation, in accordance with the Charter and international law, against transnational threats,

Reaffirming the duty of all States to refrain in their international relations from the threat or use of force in any manner inconsistent with the purposes and principles of the United Nations and to settle their international disputes by peaceful means in such a manner that international peace and security, and justice are not endangered, in accordance with Chapter VI of the Charter, and calling upon States that have not yet done so to consider accepting the jurisdiction of the International Court of Justice in accordance with its Statute,

Please recycle

Convinced that the promotion of and respect for the rule of law at the national and international levels, as well as justice and good governance, should guide the activities of the United Nations and of its Member States,

Recalling paragraph 134 (*e*) of the 2005 World Summit Outcome,[1]

1. *Takes note* of the annual report of the Secretary-General on strengthening and coordinating United Nations rule of law activities;[2]

2. *Reaffirms* the role of the General Assembly in encouraging the progressive development of international law and its codification, and reaffirms further that States shall abide by all their obligations under international law;

3. *Stresses* the importance of adherence to the rule of law at the national level, and the need to strengthen support to Member States, upon their request, in the domestic implementation of their respective international obligations through enhanced technical assistance and capacity-building, based on greater coordination and coherence within the United Nations system and among donors, and reiterates its call for greater evaluation of the effectiveness of such activities;

4. *Calls*, in this context, for enhancing dialogue among all stakeholders with a view to placing national perspectives at the centre of rule of law assistance in order to strengthen national ownership;

5. *Calls upon* the United Nations system to systematically address, as appropriate, aspects of the rule of law in relevant activities, recognizing the importance of the rule of law to virtually all areas of United Nations engagement;

6. *Expresses full support* for the overall coordination and coherence role of the Rule of Law Coordination and Resource Group within the United Nations system within existing mandates, supported by the Rule of Law Unit in the Executive Office of the Secretary-General, under the leadership of the Deputy Secretary-General;

7. *Requests* the Secretary-General to submit, in a timely manner, his next annual report on United Nations rule of law activities, in accordance with paragraph 5 of resolution 63/128;

8. *Welcomes* the dialogue initiated by the Rule of Law Coordination and Resource Group and the Rule of Law Unit with Member States on the topic "Promoting the rule of law at the international level", and calls for the continuation of this dialogue with a view to fostering the rule of law at the international level;

9. *Encourages* the Secretary-General and the United Nations system to accord high priority to rule of law activities;

10. *Invites* the International Court of Justice, the United Nations Commission on International Trade Law and the International Law Commission to continue to comment, in their respective reports to the General Assembly, on their current roles in promoting the rule of law;

[1] See resolution 60/1.

[2] A/65/318.

11. *Invites* the Rule of Law Coordination and Resource Group and the Rule of Law Unit to continue to interact with Member States on a regular basis, in particular in informal briefings;

12. *Stresses* the need to provide the Rule of Law Unit with the necessary funding and staff in order to enable it to carry out its tasks in an effective and sustainable manner and urges the Secretary-General and Member States to continue to support the functioning of the Unit;

13. *Decides* to convene a high-level meeting of the General Assembly on the rule of law at the national and international levels during the high-level segment of its sixty-seventh session, the modalities of which will be finalized during the sixty-sixth session;

14. *Decides* to include in the provisional agenda of its sixty-sixth session the item entitled "The rule of law at the national and international levels", invites Member States to focus their comments in the upcoming Sixth Committee debate on the sub-topic "Rule of law and transitional justice in conflict and post-conflict situations",[3] without prejudice to the consideration of the item as a whole, and invites the Secretary-General to provide information on this sub-topic in his report, after seeking the views of Member States.

[3] See the note by the Chairman of the Sixth Committee (A/C.6/63/L.23).

United Nations A/C.6/65/L.18

General Assembly

Distr.: Limited
3 November 2010

Original: English

Sixty-fifth session
Sixth Committee
Agenda item 86
The scope and application of the principle of universal jurisdiction

Draft resolution

The scope and application of the principle of universal jurisdiction

The General Assembly,

Reaffirming its commitment to the purposes and principles of the Charter of the United Nations, to international law and to an international order based on the rule of law, which is essential for peaceful coexistence and cooperation among States,

Recalling its resolution 64/117 of 16 December 2009,

Recognizing the diversity of views expressed by States and the need for further consideration towards a better understanding of the scope and application of universal jurisdiction,

Reiterating its commitment to fighting impunity, and noting the views expressed by States that the legitimacy and credibility of the use of universal jurisdiction are best ensured by its responsible and judicious application consistent with international law,

1. *Takes note with appreciation* of the report of the Secretary-General prepared on the basis of the comments and observations of Governments;[1]

2. *Decides* that the Sixth Committee shall continue its consideration of the scope and application of universal jurisdiction, without prejudice to the consideration of this topic and related issues in other forums of the United Nations, and for this purpose decides to establish at its sixty-sixth session a working group of the Sixth Committee to undertake a thorough discussion of the scope and application of universal jurisdiction;

3. *Invites* Member States and relevant observers, as appropriate, to submit before 30 April 2011 information and observations on the scope and application of universal jurisdiction, including, where appropriate, information on the relevant applicable international treaties, their domestic legal rules and judicial practice, and

[1] A/65/181.

Please recycle

requests the Secretary-General to prepare and submit to the General Assembly, at its sixty-sixth session, a report based on such information and observations;

4. *Decides* to include in the provisional agenda of its sixty-sixth session the item entitled "The scope and application of the principle of universal jurisdiction".

United Nations A/C.6/65/L.19

General Assembly

Distr.: Limited
5 November 2010

Original: English

Sixty-fifth session
Sixth Committee
Agenda item 107
Measures to eliminate international terrorism

Draft resolution

Measures to eliminate international terrorism

The General Assembly,

Guided by the purposes and principles of the Charter of the United Nations,

Reaffirming, in all its aspects, the United Nations Global Counter-Terrorism Strategy adopted on 8 September 2006,[1] enhancing the overall framework for the efforts of the international community to effectively counter the scourge of terrorism in all its forms and manifestations, and recalling the first and second biennial review of the Strategy, on 4 and 5 September 2008 and on 8 September 2010, respectively, and the debates that were held on those occasions,[2]

Recalling the Declaration on the Occasion of the Fiftieth Anniversary of the United Nations,[3]

Recalling also the United Nations Millennium Declaration,[4]

Recalling further the 2005 World Summit Outcome,[5] and reaffirming in particular the section on terrorism,

Recalling the Declaration on Measures to Eliminate International Terrorism, contained in the annex to General Assembly resolution 49/60 of 9 December 1994, and the Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism, contained in the annex to Assembly resolution 51/210 of 17 December 1996,

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[1] Resolution 60/288.

[2] See *Official Records of the General Assembly, Sixty-second Session, Plenary Meetings*, 117th to 120th meetings (A/62/PV.117-120),and corrigendum; and ibid., *Sixty -fourth Session, Plenary Meetings*, 116th and 117th meetings (A/64/PV.116 and 117).

[3] See resolution 50/6.

[4] See resolution 55/2.

[5] See resolution 60/1.

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Please recycle

Recalling also all General Assembly resolutions on measures to eliminate international terrorism and Security Council resolutions on threats to international peace and security caused by terrorist acts,

Convinced of the importance of the consideration of measures to eliminate international terrorism by the General Assembly as the universal organ having competence to do so,

Deeply disturbed by the persistence of terrorist acts, which have been carried out worldwide,

Reaffirming its strong condemnation of the heinous acts of terrorism that have caused enormous loss of human life, destruction and damage, including those which prompted the adoption of General Assembly resolution 56/1 of 12 September 2001, as well as Security Council resolutions 1368 (2001) of 12 September 2001, 1373 (2001) of 28 September 2001 and 1377 (2001) of 12 November 2001, and those that have occurred since,

Recalling the strong condemnation of the atrocious and deliberate attack against the headquarters of the United Nations Assistance Mission for Iraq in Baghdad on 19 August 2003 in General Assembly resolution 57/338 of 15 September 2003 and Security Council resolution 1502 (2003) of 26 August 2003,

Affirming that States must ensure that any measure taken to combat terrorism complies with all their obligations under international law and must adopt such measures in accordance with international law, in particular international human rights, refugee and humanitarian law,

Stressing the need to strengthen further international cooperation among States and among international organizations and agencies, regional organizations and arrangements and the United Nations in order to prevent, combat and eliminate terrorism in all its forms and manifestations, wherever and by whomsoever committed, in accordance with the principles of the Charter, international law and the relevant international conventions,

Noting the role of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism in monitoring the implementation of that resolution, including the taking of the necessary financial, legal and technical measures by States and the ratification or acceptance of the relevant international conventions and protocols,

Mindful of the need to enhance the role of the United Nations and the relevant specialized agencies in combating international terrorism and of the proposals of the Secretary-General to enhance the role of the Organization in this respect,

Mindful also of the essential need to strengthen international, regional and subregional cooperation aimed at enhancing the national capacity of States to prevent and suppress effectively international terrorism in all its forms and manifestations,

Reiterating its call upon States to review urgently the scope of the existing international legal provisions on the prevention, repression and elimination of terrorism in all its forms and manifestations, with the aim of ensuring that there is a comprehensive legal framework covering all aspects of the matter,

Emphasizing that tolerance and dialogue among civilizations and the enhancement of interfaith and intercultural understanding are among the most important elements in promoting cooperation and success in combating terrorism, and welcoming the various initiatives to this end,

Reaffirming that no terrorist act can be justified in any circumstances,

Recalling Security Council resolution 1624 (2005) of 14 September 2005, and bearing in mind that States must ensure that any measure taken to combat terrorism complies with their obligations under international law, in particular international human rights, refugee and humanitarian law,

Taking note of recent developments and initiatives at the international, regional and subregional levels to prevent and suppress international terrorism, including those of the African Union, the ASEAN Regional Forum, the Asia-Pacific Economic Cooperation, the Association of Southeast Asian Nations, the Bali Counter-Terrorism Process, the Central American Integration System, the Collective Security Treaty Organization, the Common Market for Eastern and Southern Africa, the Cooperation Council for the Arab States of the Gulf, the Council of Europe, the East African Community, the Economic Community of West African States, the Euro-Mediterranean Partnership, the European Free Trade Association, the European Union, the Group of Eight, the Intergovernmental Authority on Development, the International Civil Aviation Organization, the International Maritime Organization, the League of Arab States, the Movement of Non-Aligned Countries, the North Atlantic Treaty Organization, the Organization for Economic Cooperation and Development, the Organization for Security and Cooperation in Europe, the Organization of American States, the Organization of the Islamic Conference, the Pacific Islands Forum, the Shanghai Cooperation Organization, the Southern African Development Community and the World Customs Organization,

Noting regional efforts to prevent, combat and eliminate terrorism in all its forms and manifestations, wherever and by whomsoever committed, including through the elaboration of, and adherence to, regional conventions,

Recalling its decision in resolutions 54/110 of 9 December 1999, 55/158 of 12 December 2000, 56/88 of 12 December 2001, 57/27 of 19 November 2002, 58/81 of 9 December 2003, 59/46 of 2 December 2004, 60/43 of 8 December 2005, 61/40 of 4 December 2006, 62/71 of 6 December 2007, 63/129 of 11 December 2008 and 64/118 of 16 December 2009 that the Ad Hoc Committee established by General Assembly resolution 51/210 should address, and keep on its agenda, the question of convening a high-level conference under the auspices of the United Nations to formulate a joint organized response of the international community to terrorism in all its forms and manifestations,

Recalling also the Final Document of the Fifteenth Summit Conference of Heads of State and Government of the Movement of Non-Aligned Countries, adopted in Sharm el-Sheikh, Egypt, on 16 July 2009,[6] which reiterated the collective position of the Non-Aligned Movement on terrorism and reaffirmed its previous initiative calling for an international summit conference under the auspices of the United Nations to formulate a joint organized response of the international

[6] A/63/965-S/2009/514, annex.

community to terrorism in all its forms and manifestations,[7] as well as other relevant initiatives,

Aware of its resolutions 57/219 of 18 December 2002, 58/187 of 22 December 2003, 59/191 of 20 December 2004, 60/158 of 16 December 2005, 61/171 of 19 December 2006, 62/159 of 18 December 2007, 63/185 of 18 December 2008 and 64/168 of 18 December 2009,

Having examined the report of the Secretary-General,[8] the report of the Ad Hoc Committee established by General Assembly resolution 51/210[9] and the report of the Working Group established by the Sixth Committee at the sixty-fifth session of the Assembly,[10]

1. *Strongly condemns* all acts, methods and practices of terrorism in all its forms and manifestations as criminal and unjustifiable, wherever and by whomsoever committed;

2. *Calls upon* all Member States, the United Nations and other appropriate international, regional and subregional organizations to implement the United Nations Global Counter-Terrorism Strategy,[1] as well as the resolutions relating to the first and second biennial review of the Strategy,[11] in all its aspects at the international, regional, subregional and national levels without delay, including by mobilizing resources and expertise;

3. *Recalls* the pivotal role of the General Assembly in following up the implementation and the updating of the Strategy, and in this regard also recalls its invitation to the Secretary-General to contribute to the future deliberations of the Assembly, and requests the Secretary-General when doing so to provide information on relevant activities within the Secretariat to ensure overall coordination and coherence in the counter-terrorism efforts of the United Nations system;

4. *Reiterates* that criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purposes are in any circumstances unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or other nature that may be invoked to justify them;

5. *Reiterates its call upon* all States to adopt further measures in accordance with the Charter of the United Nations and the relevant provisions of international law, including international standards of human rights, to prevent terrorism and to strengthen international cooperation in combating terrorism and, to that end, to consider in particular the implementation of the measures set out in paragraphs 3 (a) to (f) of General Assembly resolution 51/210;

6. *Also reiterates its call upon* all States, with the aim of enhancing the efficient implementation of relevant legal instruments, to intensify, as and where appropriate, the exchange of information on facts related to terrorism and, in so doing, to avoid the dissemination of inaccurate or unverified information;

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[7] See A/53/667-S/1998/1071, annex I, paras. 149-162.

[8] A/65/175 and Add.1 and 2.

[9] *Official Records of the General Assembly, Sixty-fifth Session, Supplement No. 37* (A/65/37).

[10] A/C.6/65/L.10.

[11] Resolutions 62/272 and 64/297, respectively.

7. *Reiterates its call upon* States to refrain from financing, encouraging, providing training for or otherwise supporting terrorist activities;

8. *Urges* States to ensure that their nationals or other persons and entities within their territory that wilfully provide or collect funds for the benefit of persons or entities who commit, or attempt to commit, facilitate or participate in the commission of terrorist acts are punished by penalties consistent with the grave nature of such acts;

9. *Reminds* States of their obligations under relevant international conventions and protocols and Security Council resolutions, including Council resolution 1373 (2001), to ensure that perpetrators of terrorist acts are brought to justice;

10. *Reaffirms* that international cooperation as well as actions by States to combat terrorism should be conducted in conformity with the principles of the Charter, international law and relevant international conventions;

11. *Recalls* the adoption of the International Convention for the Suppression of Acts of Nuclear Terrorism,[12] the Amendment to the Convention on the Physical Protection of Nuclear Material,[13] the Protocol of 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation[14] and the Protocol of 2005 to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf,[15] and urges all States to consider, as a matter of priority, becoming parties to these instruments;

12. *Urges* all States that have not yet done so to consider, as a matter of priority and in accordance with Security Council resolution 1373 (2001) and Council resolution 1566 (2004) of 8 October 2004, becoming parties to the relevant conventions and protocols as referred to in paragraph 6 of General Assembly resolution 51/210, as well as the International Convention for the Suppression of Terrorist Bombings,[16] the International Convention for the Suppression of the Financing of Terrorism,[17] the International Convention for the Suppression of Acts of Nuclear Terrorism and the Amendment to the Convention on the Physical Protection of Nuclear Material, and calls upon all States to enact, as appropriate, the domestic legislation necessary to implement the provisions of those conventions and protocols, to ensure that the jurisdiction of their courts enables them to bring to trial the perpetrators of terrorist acts and to cooperate with and provide support and assistance to other States and relevant international and regional organizations to that end;

13. *Urges* States to cooperate with the Secretary-General and with one another, as well as with interested intergovernmental organizations, with a view to ensuring, where appropriate within existing mandates, that technical and other

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[12] Resolution 59/290, annex.

[13] Adopted on 8 July 2005 by the Conference to Consider Proposed Amendments to the Convention on the Physical Protection of Nuclear Material.

[14] Adopted on 14 October 2005 by the Diplomatic Conference on the Revision of the SUA Treaties (LEG/CONF.15/21).

[15] Adopted on 14 October 2005 by the Diplomatic Conference on the Revision of the SUA Treaties (LEG/CONF.15/22).

[16] United Nations, *Treaty Series*, vol. 2149, No. 37517.

[17] Ibid., vol. 2178, No. 38349.

expert advice is provided to those States requiring and requesting assistance in becoming parties to and implementing the conventions and protocols referred to in paragraph 12 above;

14. *Notes with appreciation and satisfaction* that, consistent with the call contained in paragraphs 11 and 12 of General Assembly resolution 64/118, a number of States became parties to the relevant conventions and protocols referred to therein, thereby realizing the objective of wider acceptance and implementation of those conventions;

15. *Reaffirms* the Declaration on Measures to Eliminate International Terrorism[18] and the Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism,[19] and calls upon all States to implement them;

16. *Calls upon* all States to cooperate to prevent and suppress terrorist acts;

17. *Urges* all States and the Secretary-General, in their efforts to prevent international terrorism, to make the best use of the existing institutions of the United Nations;

18. *Requests* the Terrorism Prevention Branch of the United Nations Office on Drugs and Crime in Vienna to continue its efforts to enhance, through its mandate, the capabilities of the United Nations in the prevention of terrorism, and recognizes, in the context of the United Nations Global Counter-Terrorism Strategy and Security Council resolution 1373 (2001), its role in assisting States in becoming parties to and implementing the relevant international conventions and protocols relating to terrorism, including the most recent among them, and in strengthening international cooperation mechanisms in criminal matters related to terrorism, including through national capacity-building;

19. *Welcomes* the current efforts by the Secretariat to prepare the third edition of the publication *International Instruments related to the Prevention and Suppression of International Terrorism* in all official languages;

20. *Invites* regional intergovernmental organizations to submit to the Secretary-General information on the measures they have adopted at the regional level to eliminate international terrorism, as well as on intergovernmental meetings held by those organizations;

21. *Notes* the progress made in the elaboration of the draft comprehensive convention on international terrorism during the meetings of the Ad Hoc Committee established by General Assembly resolution 51/210 and of the Working Group established by the Sixth Committee during the sixty-fifth session of the Assembly, and welcomes continuing efforts to that end;

22. *Decides* that the Ad Hoc Committee shall, on an expedited basis, continue to elaborate the draft comprehensive convention on international terrorism and shall continue to discuss the item included in its agenda by General Assembly resolution 54/110 concerning the question of convening a high-level conference under the auspices of the United Nations;

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[18] Resolution 49/60, annex.

[19] Resolution 51/210, annex.

23. *Also decides* that the Ad Hoc Committee shall meet from 11 to 15 April 2011 in order to fulfil the mandate referred to in paragraph 22 above;

24. *Requests* the Secretary-General to continue to provide the Ad Hoc Committee with the facilities necessary for the performance of its work;

25. *Requests* the Ad Hoc Committee to report to the General Assembly at its sixty-fifth session in the event of the completion of the draft comprehensive convention on international terrorism;

26. *Also requests* the Ad Hoc Committee to report to the General Assembly at its sixty-sixth session on progress made in the implementation of its mandate;

27. *Decides* to include in the provisional agenda of its sixty-sixth session the item entitled "Measures to eliminate international terrorism".